

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VIII, 1936

(29th September to 8th October, 1936)

FOURTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,
1936



NEW DELHI
GOVERNMENT OF INDIA PRESS
1937

Legislative Assembly.

President:

THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I., KT.

Deputy President:

MR. AKHIL CHANDRA DUTTA, M.L.A.

Panel of Chairmen:

MR. S. SATYAMURTI M.L.A.

SIR LESLIE HUDSON, KT., M.L.A.

MR. ABDUL MATIN CHAUDHURY, M.L.A.

MR. M. S. ANEY, M.L.A.

Secretary:

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary:

RAI BAHADUR D. DUTT.

Marshal:

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions:

MR. AKHIL CHANDRA DUTTA, M.L.A., *Chairman.*

SIR LESLIE HUDSON, KT., M.L.A.

PANDIT NILAKANTHA DAS, M.L.A.

MAULVI SYED MURTUZA SAHIB BAHADUR, M.L.A.

MR. N. M. JOSHI, M.L.A.

CONTENTS.

VOLUME VIII.—29th September to 8th October, 1936.

	PAGES.		PAGES.
TUESDAY, 29TH SEPTEMBER, 1936—		FRIDAY, 2ND OCTOBER, 1936—<i>contd.</i>	
Questions and Answers	1987—2020	Motions for Adjournment <i>re—</i>	
The Arya Marriage Validation Bill—Discussion on the consideration of clauses not concluded	2020—63	Indian-owned Shipping Service between India and Europe—Ruled out of order	2242—45
WEDNESDAY, 30TH SEPTEMBER, 1936—		Secrecy of Vote in the Rural Areas of the United Provinces—Disallowed by the Governor General	2245—47, 2280
Questions and Answers	2065—96	The Indian Companies (Amendment) Bill—Discussion on the consideration of clauses not concluded	2247—79, 2280—2300
Short Notice Question and Answer	2096	Message from His Excellency the Viceroy and Governor General	2280
Motion for Adjournment <i>re</i> Government's Currency Policy—Disallowed by the Governor General	2097—98, 2129	MONDAY, 5TH OCTOBER, 1936—	
The Indian Companies (Amendment) Bill—Discussion on the consideration of clauses not concluded	2098—2129, 2129-54	Member Sworn	2301
Message from His Excellency the Governor General	2129	Questions and Answers	2301—44
THURSDAY, 1ST OCTOBER, 1936—		Short Notice Question and Answer	2344—45
Questions and Answers	2155—88	Motions for Adjournment <i>re—</i>	
Motion for Adjournment <i>re</i> Control of the Soldiers on the Football Ground at Annandale, Simla—Negatived	2189—91, 2224—36	Death of Detenu Naba Jiban Ghosh—Disallowed by the President	2345—47
Statement of Business	2191—92	Prohibition of the Recital of <i>Madhe-Sahaba</i> in Lucknow—Disallowed by His Excellency the Viceroy	2347—49, 2380
Resolution <i>re</i> Interference from Public Servants in the ensuing Elections—Discussion not concluded	2192—2223	Message from the Council of State	2349
FRIDAY, 2ND OCTOBER, 1936—		Statement laid on the Table	2350—51
Member Sworn	2237	The Indian Companies (Amendment) Bill—Discussion on the consideration of clauses not concluded	2352—80, 2380—2408
Statements laid on the Table	2237—42	Message from His Excellency the Viceroy and Governor General	2380

	PAGES.		PAGES.
TUESDAY, 6TH OCTOBER, 1936—		THURSDAY, 8TH OCTOBER, 1936—	
Members Sworn . . .	2409	Member Sworn . . .	2575
Short Notice Questions and Answers . . .	2409—13	Questions and Answers . . .	2575—2623
Expunction of certain passages in a question put by Mr. Kabeer-ud-Din Ahmed . . .	2413	Unstarred Questions and Answers . . .	2623—64
The Indian Companies (Amendment) Bill—Discussion on the consideration of clauses not concluded . . .	2413—77	Motions for Adjournment <i>re—</i> Cancellation of the Press Gallery Pass of the Correspondent of the <i>Amrita Bazar Patrika</i> —Disallowed by the President . . .	2664—65
		Protection of Female Passengers travelling in Female Compartments of Trains—Disallowed by the President . . .	2665—67
WEDNESDAY, 7TH OCTOBER, 1936—		Revision of the Indian Currency and Exchange Policy—Negative . . .	2667—68
Member Sworn . . .	2479	Bill passed by the Council of State . . .	2668, 2700—20
Questions and Answers . . .	2479—2521		
Short Notice Question and Answer . . .	2521—22	Resolution <i>re</i> Interference from Public Servants in the ensuing Elections—Discussion not concluded . . .	2668—2700
Message from the Council of State . . .	2522		
The Indian Companies (Amendment) Bill—Passed as amended . . .	2523—74		

LEGISLATIVE ASSEMBLY.

Tuesday, 29th September, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

QUESTIONS AND ANSWERS.

ALLEGED BRUTAL TREATMENT OF INDIANS IN MANCHURIA BY THE JAPANESE AUTHORITIES.

679. ***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to a case of brutal treatment of Indians in Manchuria by the Japanese authorities reported in the newspapers ;
- (b) whether it is a fact that an Indian merchant and his family were arrested at Hsinking on June 17th by the Japanese authorities and were brutally ill-treated ;
- (c) what the actual facts are ;
- (d) whether it is a fact that an Indian merchant was subjected to water torture and savagely beaten, and his wife was beaten across the breasts ; and
- (e) whether the case was brought to the attention of the Japanese Government at the beginning of July by the British Ambassador in Tokyo, and what the latest information on the matter is ?

Sir Aubrey Metcalfe : The Honourable Member's attention is invited to the answers given by me on the 24th September, to Mr. M. Ananthasayanam Ayyangar's question No. 599 and to supplementary questions asked on that occasion.

Mr. S. Satyamurti : With reference to the answer to clause (e) of this question, which was also answered I know, may I know whether Government have any latest information on this matter ; whether they have pursued the matter, after the report by the British representative there, and whether they have any further information ?

Sir Aubrey Metcalfe : No, there is no further information. There is nothing really more to be said about it. As I explained, the Japanese Government said that they held a full inquiry into the matter which satisfied them that the charges of torture were unfounded, and that ended the matter. The people were never prosecuted as I explained before.

(1987)

Mr. S. Satyamurti : Was any inquiry made from the actual persons, that is the Indian merchant and his wife, by the British Consul or by the Japanese authorities ?

Sir Aubrey Metcalfe : Certainly yes, they were interviewed by the Consul and very careful inquiries were made at the moment from them, but it was unfortunate that it was quite a week or ten days after the alleged incidents had occurred, and medical examination failed to prove the actual facts alleged by the people.

Mr. S. Satyamurti : Did the inquiry show that the Indian merchant and his wife did actually complain of this ill-treatment ?

Sir Aubrey Metcalfe : Certainly they complained, but it was impossible to substantiate their statement by independent evidence because the time that had elapsed had left no marks which could be identified by medical examination.

Mr. S. Satyamurti : Was any opportunity given to the Indian merchant and his wife to adduce any evidence, apart from medical evidence, of this ill-treatment ?

Sir Aubrey Metcalfe : Opportunity ? Yes, but it is obvious that no independent evidence could be adduced, because the incident alleged to have happened took place when they were in the hands of the Japanese police.

Mr. S. Satyamurti : Are the Government satisfied now on the report of the British Consul, that these two were actually lying or giving false evidence, and there was nothing to justify their report or complaint of ill-treatment, at the hands of the Japanese authorities ?

Sir Aubrey Metcalfe : I would hardly go so far as to say that. It was conflicting evidence. These people stated one thing, and the Japanese Government stated that they had held an inquiry and come to a different conclusion. It is impossible to reconcile two directly opposite stories when there is no independent evidence available.

Mr. S. Satyamurti : Are the Government satisfied that adequate steps are being, or have been taken to prevent such incidents in future ?

Sir Aubrey Metcalfe : Certainly ! So far as any steps could be taken. A very strong diplomatic protest was made ; the matter was raised, as Honourable Members may have seen in the papers, in the House of Commons, and His Majesty's Government said that they had taken all possible steps to prevent a recurrence of such an affair.

Mr. K. Ahmed : Will not the position be improved when Indian Trade Commissioners are appointed in Japan, because they can then look after the interests of Indian merchants residing in Japan ?

Sir Aubrey Metcalfe : The Trade Commissioners have neither any diplomatic nor any consular function. The Consular functions are performed by His Majesty's Consuls who can deal with such situation adequately.

METAL SLEEPERS DESIGNED IN THE CENTRAL STANDARDS OFFICE OF THE RAILWAY BOARD.

680. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether new types of metal sleepers have been designed in the Central Standards Office of the Railway Board and are being tried extensively on the East Indian, North Western, and other Railways ;
- (b) whether these sleepers are manufactured in India or are imported ; and
- (c) what the cost will be of using extensively these metal sleepers, and whether they propose to consider the cost and the need for encouraging Indian industry, before deciding this question ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The reply is in the affirmative.

(b) The sleepers and all fittings are manufactured in India.

(c) The annual cost of metal sleepers is considerably less than wooden sleepers. As metal sleepers are manufactured in India from raw materials produced in India their use is a source of encouragement to Indian industry.

Mr. S. Satyamurti : What is the relative age of these sleepers, wooden *versus* steel ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I could not answer that exactly without notice, but I should imagine that steel sleepers are very much more durable.

Mr. S. Satyamurti : May I take it, therefore, that the Government, in coming to the conclusion that the use of these metal sleepers will on the whole result in savings, have taken the relative ages of these two types of sleepers into consideration ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

†681*.

†682*.

RENEWAL OF THE INDO-JAPANESE TRADE AGREEMENT.

683. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled " Poor Oysters ", published in the *Bombay Sentinel* of the 17th of July, 1936 ;
- (b) whether it is a fact that the contents of the memorandum of the non-official delegation and the Indo-Japanese Contract were kept strictly confidential from the press but the *Times of India* correspondent was able to get a copy ;

†This question was withdrawn by the questioner.

(c) whether any distinction was made by them between one press and another and, if so, why ; and

(d) whether in dealing with the representation of Japan for renewal of Indo-Japanese Pact the interest not only of the Indian mills but also of the people of India generally will be kept in mind ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (d). Yes Sir.

(b) Government have published no information beyond what is contained in the Press Communiqués issued by them from time to time.

(c) Does not arise.

Mr. S. Satyamurti : Has the attention of the Government been drawn to the statement in clause (b) of the question, that the *Times of India* correspondent was able to get a copy, and publish the contents of this memorandum ?

The Honourable Sir Muhammad Zafrullah Khan : That may be correct.

Mr. S. Satyamurti : May I know whether the Government have investigated how copies of confidential documents were made available to the correspondent of the *Times of India* ?

The Honourable Sir Muhammad Zafrullah Khan : It was not necessary for Government to make any inquiry into the matter. Government are quite satisfied that it was not their copy that was communicated to the press ; after all, when a communication is addressed to the Government, and also appears in the press, and Government are quite sure that there has been no leakage on their side, the inference is obvious.

Mr. S. Satyamurti : With reference to clause (d) of the question, may I know whether the Government have kept in view particularly the interests of the handloom weavers ?

The Honourable Sir Muhammad Zafrullah Khan : I have already said on several occasions that Government are keeping all these matters in mind.

Mr. S. Satyamurti : Are they considering the interests of the growers of cotton particularly ?

The Honourable Sir Muhammad Zafrullah Khan : Most certainly.

CONTRACT FOR THE CONSTRUCTION OF THE HOWRAH BRIDGE.

684. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article entitled "London gets Howrah" in the *Amrita Bazar Patrika* of the 11th of July, 1936 ;

(b) whether their attention has been drawn to the statement of Mr. Walchand Hirachand to the Associated Special Service at Simla on the 11th of July published in the *Hindu* of the 12th ;

- (c) whether the Bengal Government have approved of the Bridge Commissioner's decision that the new Howrah Bridge should be constructed by Cleveland Bridge and Engineering Company ;
- (d) whether the Government of India were consulted in the matter and whether they replied agreeing with the decision of the Government of Bengal and, if so, why ;
- (e) whether the Government of Bengal had power to accept or reject the resolution of the Port Commissioners ;
- (f) whether the Government of Bengal, or the Government of India through them received a representation from the Indian Combine setting out their claims and the need for the contract being retained in India, and the reasons why the cheapest tender was rejected ;
- (g) whether the higher cost of the tender of the Indian Combine was not due to the desire of the Indian Combine to make the special structure impregnable against the ravages of the Hooghly ; and
- (h) whether the European Commissioner resisted the attempt to induce the Indian Combine to scale down their estimates to a round figure of Rs. 220 lakhs on the plea of *sancity* of tenders, and whether the Government of India are prepared to take any steps to secure the contract for Indians ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes, Sir.

(c) to (f). I would refer the Honourable Member to the answer given by me on the 11th September to Mr. T. S. Avinashilingam Chettiar's question No. 585.

(g) and (h). Government have no information.

Mr. S. Satyamurti : With reference to the answer to clause (d) of the question, if an answer has been given, I forget what it is, and with apologies, I should like to ask again whether the Government of India were consulted in the matter and did they reply agreeing with the decision of the Government of Bengal in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir, there was no question of either agreement or disagreement. The proposed decision of the Bengal Government was conveyed to the Government of India for information.

Mr. S. Satyamurti : May I take it, Sir, that the Government of India did not communicate their decision by means of any reply to the Government of Bengal on this matter ?

The Honourable Sir Muhammad Zafrullah Khan : No, they only acknowledged the communication.

Mr. S. Satyamurti : Was it a mere acknowledgment or was there any expression of approval, disapproval, or modified approval ?

The Honourable Sir Muhammad Zafrullah Khan : There was no expression of approval, disapproval or modified approval.

Mr. S. Satyamurti : May I know when this information was conveyed to the Government of India ? Was it before the Government of Bengal had accepted it, or after ?

The Honourable Sir Muhammad Zafrullah Khan : I have not the papers before me, but I believe it was just before they communicated their decision to the Bridge Commissioners.

Mr. S. Satyamurti : May I know why the Government of India did not ask the Government of Bengal to consider the strong feeling in this matter both in this House and elsewhere, that, if possible, the contract should go to an Indian combine, and not to a foreign concern ?

The Honourable Sir Muhammad Zafrullah Khan : As I have assured the House, the Government of Bengal were aware of this feeling themselves.

Mr. S. Satyamurti : With regard to the answers to clauses (g) and (h) of the question, may I know whether the Government have made any inquiry into the matter, and have not got any information, or they have made no inquiry at all ?

The Honourable Sir Muhammad Zafrullah Khan : No inquiry has been made.

Mr. S. Satyamurti : May I know why, since this question was raised, Government did not care to make any inquiries on these two important matters which are relevant to the question raised in these two clauses ?

The Honourable Sir Muhammad Zafrullah Khan : For the reason that as the matter comes under section 5 of the Howrah Bridge Act it was within the competence of the Local Government, the decision had already been come to and given effect to, and any inquiries made and any information obtained thereafter by the Government of India would have made no difference in the situation.

TERRORIST SITUATION IN INDIA.

685. **Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the question and answer in the House of Commons on the 20th of July and the statement of Mr. R. A. Butler that the terrorist situation has improved but still demands the vigilance of the police ;
- (b) whether, in view of the improved situation, they propose to release all detenus ; and
- (c) whether they propose to take steps to repeal the repressive laws now in force in Bengal ?

The Honourable Sir Henry Craik : (a) Yes.

(b) and (c). No.

Mr. S. Satyamurti : May I take it, with reference to the answer to clause (b) of the question, that the Government of India agree with Mr. Butler, the Under-Secretary of State, that there is an improvement in the situation ?

The Honourable Sir Henry Craik : Yes.

Mr. S. Satyamurti : May I know then the reasons why the Government do not propose to quicken the pace of the release of the detenus or consider the question of releasing all of them at a suitable time ?

The Honourable Sir Henry Craik : I think the pace is being quickened. There is no question of release of all of them at present ; the situation has not sufficiently improved for that.

Mr. S. Satyamurti : May I ask how many detenus were released in the course of the last year ?

The Honourable Sir Henry Craik : I have not got the figures for last year, but since the beginning of the present year I think two hundred and twenty-five.

Mr. S. Satyamurti : May I ask how many detenus are still confined, deducting all those who have been released since the new scheme mentioned by the Honourable the Home Member ?

The Honourable Sir Henry Craik : The number in jails is at present 453 in the two detention camps at Berhampore, 450 at Deoli, 316 at Hijli, and three in jails outside Bengal. That makes a little over 1,200.

Pandit Lakshmi Kanta Maitra : Is it not a fact that out of these 225 detenus who are said to have been released this year, most of them have been conditionally released and some of them have been home-interned ?

The Honourable Sir Henry Craik : Yes, a certain number has been conditionally released, some unconditionally, and some have been home-domiciled.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member in a position to tell us what is the percentage of people who have been unconditionally released ?

The Honourable Sir Henry Craik : No, I must have notice.

Mr. T. S. Avinashilingam Chettiar : May I know whether in view of the improvement in the situation, they expect the release of all the detenus in any number of years in the future ?

The Honourable Sir Henry Craik : I cannot say. If the improvement continues, I hope it will be possible to speed up releases considerably.

Pandit Lakshmi Kanta Maitra : Is it not a fact that along with the releases the Government are carrying on the policy of interning other people month by month ?

The Honourable Sir Henry Craik : A certain number are being interned, but that is a matter for the Government of Bengal. So far as I know, the number of releases is exceeding the number of fresh internments by a good deal.

Mr. S. Satyamurti : With regard to clause (c) of the question, may I know if Government are examining the working of and the need for these repressive laws, since the improvement in the situation mentioned in clauses (a) and (b) of the question ?

The Honourable Sir Henry Craik : The question of the working of the repressive laws is constantly under consideration.

Mr. S. Satyamurti : May I know if Government have come to the conclusion that all these repressive laws in their present form are absolutely necessary, in spite of this improvement in the situation ?

The Honourable Sir Henry Craik : Yes, for the present they are.

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

EXTERNMENT ORDER ON ONE MR. RATNA PRAKASH, A MEMBER OF THE DELHI PROVINCIAL CONGRESS COMMITTEE.

686. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether it is a fact that Mr. Ratna Prakash, a member of the Delhi Provincial Congress Committee and a prominent youth worker of Delhi, was served with an externment order on the 20th of July at the Delhi railway station ;
- (b) whether the order required him to leave Delhi within 24 hours, and not to return to it for a year ;
- (c) whether Mr. Ratna Prakash came to Delhi to attend the Provincial Congress Committee meeting and returned to Meerut the same evening ; and
- (d) the reasons for such action ?

The Honourable Sir Henry Craik : (a) He was served with an externment order on the 19th July.

(b) Yes.

(c) The reason for his visiting Delhi is not known. The externment order was dated July the 10th and was served on him the next occasion he entered the Delhi Province, namely July 19th. He was ordered to remove himself within 24 hours and he left Delhi the same evening.

(d) I would invite the attention of the Honourable Member to the reply I gave to Mr. Asaf Ali's starred question No. 621, dated the 25th September, 1936.

Mr. S. Satyamurti : Did the Government consider the question of taking any action against him in courts of law ?

The Honourable Sir Henry Craik : I am not certain about that ; I must have notice.

Mr. S. Satyamurti : May I know if Government, before passing such orders, explore the possibility of prosecuting the persons in courts of law and giving them a chance of establishing their innocence or not ?

The Honourable Sir Henry Craik : That is almost invariably done.

Mr. S. Satyamurti : May I ask why it was not done in this case ?

The Honourable Sir Henry Craik : There again, as I say, I must have notice.

Pandit Lakshmi Kanta Maitra : May I ask whether, in passing these externment orders, Government take into consideration the fact that the persons so externed may have some stake in the place and may have their own place of business and trade there and are very seriously affected if they are externed by such executive order ?

The Honourable Sir Henry Craik : That is taken into consideration. The person referred to in this question does not live in Delhi but lives in Meerut.

Mr. Mohan Lal Saksena : Is it not a fact that in Meerut itself no restrictive orders have been imposed on Mr. Ratan Prakash Gupta ?

The Honourable Sir Henry Craik : That is very likely ; the special Act under which these orders have been passed does not, so far as I know, apply in Meerut.

Mr. Mohan Lal Saksena : Was this externment order served on him upon information received from Meerut or upon information supplied by the Delhi C. I. D. ?

The Honourable Sir Henry Craik : The Honourable Member cannot expect me to disclose the information on which this order was passed.

RELEASE OF PERSONS DETAINED WITHOUT TRIALS IN JAILS.

687. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the question and answer in the House of Commons on the 20th of July suggesting that Mr. Butler should consult the Government of India with a view to securing the review of cases of persons imprisoned for political offences, so that, wherever compatible with the prevention of violence, an amnesty could be granted before the Coronation, and Mr. Butler's reply that there were only four civil disobedience movement prisoners in Jail ;
- (b) whether they propose to bring to the notice of the Secretary of State that besides these four civil disobedience movement prisoners, there are still hundreds in jail who were not tried or convicted but who are detained by executive order ; and
- (c) whether they propose to consider the question of their release as early as possible ?

The Honourable Sir Henry Craik : (a). Yes.

(b) No. The Secretary of State is aware of the position.

(c) Cases of those detained without trial are reviewed periodically with a view to determine whether it is in the public interest to release them.

Mr. S. Satyamurti : May I know how the Secretary of State is kept informed from time to time, about the persons who are detained in jail, but who are not tried or convicted and merely detained by executive order ?

The Honourable Sir Henry Craik : Constant reports are sent to the Secretary of State on this subject by the Government of India.

Mr. S. Satyamurti : How often ?

The Honourable Sir Henry Craik : Certainly once a fortnight and possibly oftener.

Mr. S. Satyamurti : Do these reports contain the names of these persons and the reasons why they are kept detained in jail without trial ?

The Honourable Sir Henry Craik : Not the names, but the numbers.

Mr. S. Satyamurti : Are the reasons given ?

The Honourable Sir Henry Craik : The Acts under which they are detained are stated ; detailed reasons are not given in each case.

Mr. S. Satyamurti : When was this question of release of all these persons who are detained by executive order last considered by the Government of India ?

The Honourable Sir Henry Craik : The Honourable Member is under a misapprehension. The majority of those persons are not detained by order of the Government of India but by order of the Government of Bengal.

Mr. T. S. Avinashilingam Chettiar : May I know why these four Civil Disobedience Movement prisoners still kept in jail ?

The Honourable Sir Henry Craik : I do not think they are ; I think they have been released now.

Mr. S. Satyamurti : I am asking, Sir, when the case of these gentlemen kept in jail without trial or conviction was last examined by the Bengal Government.

The Honourable Sir Henry Craik : That is a question which ought to be addressed to the Bengal Government.

Mr. T. S. Avinashilingam Chettiar : Am I to understand that after the 20th July, these four prisoners were released ?

The Honourable Sir Henry Craik : I am not certain about that but if the Honourable Member will put down a question, I will do my best to reply.

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

APPOINTMENT OF THE CABINET SECRETARY.

688. **Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the total cost of the deputation of Sir Eric Mievill to England in connection with his contemplated appointment as the future Cabinet Secretary ;
- (b) whether they were asked permission to let him accept another appointment ; and
- (c) whether there is no proposal to appoint a Cabinet Secretary and, if so, why ?

The Honourable Sir Henry Craik : (a) I would refer the Honourable Member to the reply which I gave to his starred question No. 417 on the 16th September, 1935.

(b) Yes.

(c) As I have already said in reply to another question, Mr. Spence, Secretary, Legislative Department, is at present doing the work of Secretary to the Executive Council in addition to his own duties.

Mr. S. Satyamurti : May I know how long Sir Eric Mieville was on deputation in connection with this training ?

The Honourable Sir Henry Craik : Speaking from memory, I think about six weeks.

Mr. S. Satyamurti : May I know whether the Government of India have any information about what he was doing there during these six weeks ? Was he jobbing for the Duke of York's Private Secretary's place, or really doing any work at all ?

The Honourable Sir Henry Craik : I know from conversation with him after his return that he was working extremely hard ; he was working in the office of the Cabinet Secretariat at home every day.

Mr. S. Satyamurti : Have the Government of India received any report from him, on the results of his extremely hard work at the Cabinet Secretariat in England ? (*Voices from the Official Benches :* "That has been answered before".) When was his report submitted ?

The Honourable Sir Henry Craik : The report was presented when he returned to India.

Mr. T. S. Avinashilingam Chettiar : May I know whether he was sent on deputation at much Government expense only to submit a report, or so that he might have experience of Cabinet work so as to act as Cabinet Secretary here ?

The Honourable Sir Henry Craik : He was sent to ascertain and study the system of working of the Cabinet Secretariat in the United Kingdom a year ago and to report to the Government of India.

Mr. T. S. Avinashilingam Chettiar : Was it merely for that report only ?

The Honourable Sir Henry Craik : I do not understand the Honourable Member's question.

Mr. T. S. Avinashilingam Chettiar : Was it merely for getting information about the working of the Cabinet system that he was sent, or in order that he might get experience to do such work here ?

The Honourable Sir Henry Craik : Both, obviously.

Mr. T. S. Avinashilingam Chettiar : Why then was he given the consent of the Government of India to accept another appointment ?

The Honourable Sir Henry Craik : The Government of India were asked to agree to his accepting another appointment and they reluctantly agreed.

Mr. S. Satyamurti : Were they asked by His Majesty's Government, or by the Duke of York, or by Sir Eric Mieville ?

The Honourable Sir Henry Craik : I do not know.

Mr. Sri Prakasa : Are Government satisfied that the knowledge gained by Sir Eric Mieville at such expense has been vicariously injected in Mr. Spence ?

(No answer.)

Mr. T. S. Avinashilingam Chettiar : May I know that certain officers of Government are allowed to go to England at Government expense with the object of doing something else ?

The Honourable Sir Henry Craik : No, Sir.

Mr. N. V. Gadgil : May I know if the expenditure will be recovered from the gentleman concerned ?

(No answer.)

PLIGHT OF WEAVERS IN MADRAS.

689. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the report of a speech on "Weavers plight in Madras" published in the *Statesman* of the 25th of July, 1936 ;
- (b) whether they have examined or propose to examine the allegations contained in the speech that, as a result of the new duties recommended by the special Textile Tariff Board and accepted by the Government, the Indian weaver would lose the tiny market he possessed at present ;
- (c) whether they propose to consider the question of giving adequate protection to him ; and
- (d) whether they propose to undertake to examine the possibility of a compartmental system of work between the mills and hand-loom weavers, and, if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes, Sir. The attention of the Honourable Member is invited to paragraphs 105, 106 and 109 of the Report of the Special Tariff Board, copies of which are in the Library.

(c) The question will come up for review when the present term of protection to the cotton textile industry expires.

(d) I would refer the Honourable Member to the reply given by me on the 27th February, 1936, to a supplementary question by Professor N. G. Ranga in connection with his starred questions Nos. 860 and 861.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, may I know whether the Government have examined this position independent of the report of the Textile Tariff Board, and have come to any conclusion on the question whether the Indian weaver would not suffer very adversely, by the Government having accepted the recommendations of this Special Tariff Board ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir. Government have not examined it apart from the recommendations of the

Special Tariff Board as they had no reason or data for thinking that the conclusions arrived at by the Special Tariff Board were not justified.

Mr. S. Satyamurti : Are Government watching the effect of these new reduced duties on the handloom weavers' market in this country ?

The Honourable Sir Muhammad Zafrullah Khan : The position with regard to all these duties is continuously watched.

Mr. S. Satyamurti : May I specifically ask whether Government will take steps to have particular attention paid to the effect on the handloom weavers' products in this country, as a result of the imposition of these new reduced duties on British textiles ?

The Honourable Sir Muhammad Zafrullah Khan : If any particular facts appear, attention will be paid to them.

Mr. S. Satyamurti : What is the machinery in the possession of Government, by which they judge the effects of these duties on handloom weavers and their products ?

The Honourable Sir Muhammad Zafrullah Khan : There are different kinds of statistics that are supplied to Government by their officers.

Prof. N. G. Ranga : Is it not a fact that when this Special Tariff Board was investigating this matter the possible effects of such a reduction as has taken place on the handloom weavers industry were not studied ?

The Honourable Sir Muhammad Zafrullah Khan : Their report shows that they did study them.

Prof. N. G. Ranga : Is it not a fact that the Madras Government has protested against the reduction in these duties ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of that.

Prof. N. G. Ranga : Has the Government of Madras made any representation with reference to part (d) of this question to introduce a compartmental system of work between the handloom weavers so that the handloom industry may not suffer so much as a result of their competition with cotton mill industry ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question. I do not seem to have any recollection of any such representation.

Mr. T. S. Avinashilingam Chettiar : May I ask whether the Government are satisfied that the attention they are giving and the Local Governments are giving to the protection of the handloom weavers is sufficient and that their condition is really improving ?

The Honourable Sir Muhammad Zafrullah Khan : That is a question of opinion.

ARTICLE ENTITLED "ROAD AND RAIL POSITION THROUGHOUT THE WORLD"
PUBLISHED IN THE *Hindustan Times*.

90. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to an article entitled "Road and Rail Position throughout the world", published in the *Hindustan Times* of the 24th of July, 1936 ;

- (b) whether they are prepared to profit by the facts and arguments mentioned therein ; and
- (c) whether they propose to keep in mind the co-ordination of road and rail transport from the point of view of the greatest convenience of the greatest number of people and from no other point of view ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). Government are always prepared to consider all facts and arguments from whatever source they emanate, and bear them in mind from the point of view suggested in the Honourable Member's question.

Mr. S. Satyamurti : May I know if the result of their constant readiness to profit by advice is shown only by the example of the Ticketless Travel Bill, the Motor Transport Bill, and the Road Resolution ?

The Honourable Sir Muhammad Zafrullah Khan : That is not a question.

Mr. President (The Honourable Sir Abdur Rahim) : That is not a question.

Mr. S. Satyamurti : What is wrong with it, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : It is really a sarcastic reflection on the Government and does not really ask information and that is not allowed.

Mr. S. Satyamurti : Then what is the result of their profit from our advice ? Is it not only the three things that I have mentioned, or have they got anything else in their mind ?

The Honourable Sir Nripendra Sircar : The question is sarcastic.

Mr. S. Satyamurti : Life would be intolerable here, Sir, unless we have some humour occasionally.

Mr. President (The Honourable Sir Abdur Rahim) : We have plenty of display of humour in the House.

Mr. S. Satyamurti : I will then put the question, as my Honourable friend, the Law Member, would put it. May I ask very respectfully from the Government whether their profit by the advice of all these gentlemen has resulted in the Road Resolution, Ticketless Travel Bill and the Motor Vehicles Bill, or have they got any other suggestions in their mind as a result of the profit from this advice ?

The Honourable Sir Muhammad Zafrullah Khan : May I respectfully remind the Honourable Member that the essence of this question has been answered several times in this House.

NOTE ENTITLED " FRONTIER POST ATTACKED " PUBLISHED IN THE *Statesman*.

691. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether the facts mentioned in the Government note published in the *Statesman* of the 24th of July, 1936, entitled " Frontier Post attacked " is correct ; and
- (b) why such incidents continue to take place ?

Sir Aubrey Metcalfe : (a) Yes.

(b) Such incidents are attributable to conditions peculiar to tribal territory as also to the mentality of some of the inhabitants thereof.

Mr. M. Asaf Ali : May I ask which of these Frontier posts was attacked ?

Sir Aubrey Metcalfe : It is somewhere in South Waziristan.

Mr. S. Satyamurti : May I know whether, since the 24th July, 1936, the position in the Frontier from this point of view has improved or has deteriorated or is stationary ?

Sir Aubrey Metcalfe : Which point of view ?

Mr. S. Satyamurti : That is to say, of the disturbances due to the nature of some of these people, and such incidents as have happened ?

Sir Aubrey Metcalfe : This was not a disturbance ; it was merely a private feud between two individuals and a *Khassadar* post was attacked in the course of this feud by a number of other individuals. That was all that happened. It was not an anti-Government affair and there is no disturbance at present in the Frontier.

Mr. S. Satyamurti : Do such incidents still take place in the Frontier ?

Sir Aubrey Metcalfe : Such incidents take place even in British India. There are murders committed in private feuds.

Mr. S. Satyamurti : May I know whether the situation in the Frontier is no worse than in any settled tracts in British India ?

Sir Aubrey Metcalfe : I do not think I can be called upon to make a comparison of that sort.

Mr. President (The Honourable Sir Abdur Rahim) : That is not a proper question to ask.

Mr. S. Satyamurti : But he provoked the question. He said that such incidents take place in British India. In that case, I am surely entitled to ask whether the position in the Frontier is the same as in the rest of India ?

Mr. President (The Honourable Sir Abdur Rahim) : It is a matter of opinion.

Mr. S. Satyamurti : But he offered to give an opinion. I did not ask him to say that.

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

MEMORANDUM SUBMITTED BY THE INDIAN NATIONAL ASSOCIATION OF ZANZIBAR TO MR. G. H. BINDER.

692. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they have received a copy of the memorandum submitted by the Indian National Association of Zanzibar to Mr. G. H. Binder, published in the *Hindustan Times* of the 21st July, 1936 ;

- (b) whether they have examined the allegations in the memorandum that so far as prices have improved since 1933, the improvement is not due to the operations of the Clove Growers' Association, but due normally to the recovery which is taking place in the commodities as a whole ;
- (c) whether they have also examined the other allegations of the Association in the memorandum, that the Clove Growers' Association has ruined Indian Trade in cloves, has seriously endangered Indian trade in other respects, and has antagonised the foreign market ; and
- (d) whether they will continue to press upon the authorities that the Clove Growers' Association, as at present constituted, should be abolished, or, in the alternative, it should direct its operations only towards promoting the welfare of the producer and should on no account take part in buying and selling them locally, or in foreign market ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) to (d). Government have examined the memorandum and will take into account the arguments used and suggestions made there in any further representations that may have to be made after receipt of Mr. Binder's report.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, may I know if the Government have examined the position, and have come to any conclusion on this statement that the improvement is not due to the operations of the Clove Growers' Association, but to normal recovery ?

Sir Girja Shankar Bajpai : It is rather a difficult question to answer. There are two contending points of view. One is that the improvement is due to the raising of prices because of the operations of the Clove Growers' Association. The Indian contention is that it is not so ; that it is part of the natural process of recovery that has taken place during the last two years.

Mr. S. Satyamurti : Have Government examined this question, and have they come to any conclusion ?

Sir Girja Shankar Bajpai : I would submit that it would not be in the public interest for me to say what Government's conclusion in regard to that is. That conclusion had better be reserved for the time when we make representations to His Majesty's Government.

Mr. S. Satyamurti : May I take it, then, that the Government have examined this matter and have come to a conclusion ?

Sir Girja Shankar Bajpai : Yes. Indeed, the memorandum was, as a matter of fact, drawn up with the assistance of Mr. Bozman ; whom the Government of India sent to Zanzibar.

Mr. S. Satyamurti : Is not the same answer to clause (c) of the question also ?

Sir Girja Shankar Bajpai : The answer is that Government have examined the allegations that have been made therein.

Mr. S. Satyamurti : With regard to part (d), have Government made or will they make representations on the lines suggested, particularly that this Association, if it is not abolished, should direct its operations only towards promoting the welfare of the producer and should on no account take part in buying and selling cloves locally or in foreign market ?

Sir Girja Shankar Bajpai : Sir, I would not like to commit myself at this stage to the adoption of any particular argument used in the memorandum, but I can tell my Honourable friend that we shall certainly express very candidly our opinion in regard to the Clove Growers' Association.

Maulana Shaukat Ali : Has this Clove Growers' Association in any way improved the condition of the original inhabitants in Zanzibar ?

Sir Girja Shankar Bajpai : That is the contention of the Clove Growers' Association.

Maulana Shaukat Ali : Do the Government in India intend the setting up of marketing arrangements so that the produce might get better price ?

Sir Girja Shankar Bajpai : I am not aware of any marketing arrangements in India to improve the position of the clove growers in Zanzibar.

Maulana Shaukat Ali : Does the Clove Growers' Association make any arrangements there with a view to help the original producers of Zanzibar in getting a fair market for their produce ?

Sir Girja Shankar Bajpai : I have answered that question already. The Clove Growers' Association contend that all their activities are calculated to put the producer in Zanzibar in the most favourable position.

Maulana Shaukat Ali : Thank you.

POSITION OF INDIANS IN ZANZIBAR.

693. **Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading note on the position of Indians in Zanzibar, published in the *Hindu*, dated the 20th of July, 1936 ;
- (b) whether they are prepared to press upon the authorities that Indian traders are in favour of fixing the minimum price and not a maximum price for cloves ; and
- (c) whether they propose to take steps to secure an opportunity to make their own representation on Mr. Binders' recommendations before the Colonial Office finally disposes of the question ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The Honourable Member's attention is invited to the reply which I have just given to parts (b) to (d) of his immediately preceding question.

(c) The Honourable Member's attention is invited to the reply given by me on the 31st August, 1936, to the supplementary questions arising out of Mr. T. S. Avinashilingam Chettiar's starred question No. 23.

ARTICLE ENTITLED "INDO-JAPANESE TRADE TALKS" PUBLISHED IN THE
Statesman.

694. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "Indo-Japanese Trade Talks", published in the *Statesman* of the 23rd of July, 1936 ;
- (b) whether they propose to consider all the facts and arguments contained in the article in initiating Indo-Japanese Agreement ; and
- (c) whether they propose to give facilities to all interests concerned to make their representations at every stage of the negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (c). Yes.

Mr. S. Satyamurti : With reference to part (c), what are the facilities now available at the present stage of negotiations for all interests concerned to make their representations ?

The Honourable Sir Muhammad Zafrullah Khan : The same as have been available throughout.

Mr. S. Satyamurti : May I know whether, in the present stage of the negotiations, Government have taken steps, or will take steps to consult all relevant, industrial and commercial interests, before they finally make up their minds on the matter ?

The Honourable Sir Muhammad Zafrullah Khan : If a stage is reached where such consultation would be of help, they will certainly do so.

Mr. T. S. Avinashilingam Chettiar : Who will determine whether industrial and commercial opinion will be beneficial to them or not ?

The Honourable Sir Muhammad Zafrullah Khan : I did not say so in the abstract. I said if a stage is reached where further consultation is likely to be helpful, they will do so. Obviously, it is for the Government to decide.

Prof. N. G. Ranga : Has any one been consulted by the Government of India in regard to cotton growers' interests ?

The Honourable Sir Muhammad Zafrullah Khan : Among the non-official advisers these interests are represented.

FRANCHISE FOR INDIANS IN FIJI.

695. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "The Imposed Compromise", published in the *Hindustan Times* on the 20th of July, 1936, referring to the franchise for Indians in Fiji ;

- (b) the reasons why the principle of nomination is being still maintained with respect to two Indians and two Europeans ;
- (c) the reasons why the 4,000 Europeans on the one hand get five representations, while 60,000 Indians get only five ; and
- (d) whether they propose to make further representations to increase the representation of Indians and also for a common electoral roll ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The Honourable Member's attention is invited to paragraph 5 of the summary of the Despatch from the Secretary of State for the Colonies, a copy of which was laid on the table in reply to Mr. T. S. Avinashilingam Chettiar's starred question No. 68 on the 2nd September last.

(c) and (d). I would invite the Honourable Member's attention to my replies to the supplementary questions arising out of starred question No. 68, and to paragraph 5 of the summary referred to in part (b).

Mr. S. Satyamurti : May I know how long the Government propose to wait, before they take steps to make further representations on the lines suggested in clause (d) of the question ?

Sir Girja Shankar Bajpai : I cannot assign any specific time limit with regard to this.

Mr. S. Satyamurti : Do Government realise the disparity pointed out in clause (c) of the question ? Will they at least keep that in mind, and take the earliest possible opportunity to make further representations on this matter ?

Sir Girja Shankar Bajpai : On the last occasion when a similar supplementary question was put by my Honourable friend, I reminded him of the statement made on behalf of the Government of India some time in 1929 when the original decision in regard to the composition of the Fiji Legislative Council was taken. In the Resolution of the Government of India my Honourable friend will find that the Government of India made a very strong point of increasing the Indian representation because of the larger Indian population, but unfortunately that representation was not conceded by the Colonial Office who took the view that so long as there is an official majority, it does not very much matter what the representation of individual communities is.

Mr. S. Satyamurti : Will the Government take up the matter, and if so, how soon ?

Sir Girja Shankar Bajpai : That is asking me the same question over again. I have said that I cannot fix any exact time when representations will be made. When opportunity occurs the representations will be made.

Mr. S. Satyamurti : As regards common electoral roll, will Government make any representations ?

Sir Girja Shankar Bajpai : In regard to the common electoral roll Government do not think that the time is opportune for making any representations because the Secretary of State for the Colonies has declared

categorically in his latest Despatch that he does not think that the circumstances of Fiji would justify the introduction of a common electoral roll.

RAIL ROAD COMPETITION AND CONVENIENCES FOR THIRD CLASS PASSENGERS.

696. ***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "Against public policy", published in the *Bombay Sentinel*, of the 20th of July, 1936, regarding rail-road competition ;
- (b) whether they have taken or propose to take any steps to increase the conveniences for third class passengers ;
- (c) whether the new type of third class carriages is going to be introduced and, if so, when, and to what extent ; and
- (d) whether they are aware of the strong feeling in the country against trying to help the railways, at the expense of the road users, without taking all other steps to make the railways more efficient and less costly in management ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) All practicable efforts are being and will continue to be made in this respect.

(c) Details of the design are still under examination.

(d) Government are aware of the variety of views expressed. They are pursuing their policy of endeavouring to secure greater efficiency at the minimum cost.

Mr. S. Satyamurti : I am tired of asking this question contained in part (b), you will pardon me, Sir, I should like to know whether the Honourable the Commerce Member will be good enough to say compendiously what are the steps which have actually been taken, since a Resolution on this subject was passed both at budget time and since, to increase the convenience of third class passengers ?

The Honourable Sir Muhammad Zafrullah Khan : I have answered that several times.

Mr. S. Satyamurti : When did the Honourable Member answer ?

Mr. President (The Honourable Sir Abdur Rahim) : I think it has been answered on several occasions.

The Honourable Sir Muhammad Zafrullah Khan : Some days ago, I gave instances relating to the conveniences provided for third class passengers.

ARTICLE ENTITLED "GREED OF KENYA WHITES" PUBLISHED IN THE *Bombay Sentinel*.

697. ***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "Greed of Kenya Whites", published in the *Bombay Sentinel* ;

- (b) whether the Order-in-Council has been received by them, and, if so, whether it would be placed on the table of this House ;
- (c) whether it is a fact that there has been an addition of something like 5,000 square miles to the reserved area for the Europeans ;
- (d) whether the natives are not satisfied with the area reserved for them, as it is too small ; and
- (e) whether they are prepared to ascertain if in fact any discrimination is practised against Indians in the Highlands ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The reply to the first half is in the negative. The second half does not arise.

(c) and (e). The attention of the Honourable Member is invited to the replies given to the supplementary questions arising out of his starred question No. 42 on the 1st September last.

(d) Government have no information.

Mr. S. Satyamurti : With reference to part (b) of the question, may I know if there is any delay in sending the Order-in-Council or whether Government will not at any time get the Order-in-Council ?

Sir Girja Shankar Bajpai : I am pretty certain that we shall get a copy of the Order-in-Council when it is issued, but the substance of the Order-in-Council has already been announced in the House of Commons by the Secretary of State for the Colonies.

Mr. S. Satyamurti : Will the Government be good enough to send for a copy of the Order-in-Council, and place it on the table of the House ?

Sir Girja Shankar Bajpai : The India Office are already aware of our anxiety to have a copy of the Order-in-Council. As soon as it is issued, I have no doubt whatsoever that they will send it. But whether it can be placed on the table of the House will depend on whether the House will be in session at the time.

Mr. T. S. Avinashilingam Chettiar : With reference to part (e) have the Government ascertained if in fact any discrimination is practised against Indians in the Highlands ?

Sir Girja Shankar Bajpai : Apart from the discrimination in regard to the holding of land, Government are not aware that any discrimination is being practised.

Mr. S. Satyamurti : Since this Order-in-Council was passed, may I know if the Government have any information as to the practical exclusion of Indians by *de facto* orders ? Apart from the Order-in-Council giving statutory recognition of this reservation, as a matter of fact, have any Indians applied, and have been denied any land in Highlands ?

Sir Girja Shankar Bajpai : In the first place no Order-in-Council has been passed. All that has happened is that the Secretary of State for the Colonies has declared what the intentions of His Majesty's Government in regard to the passing of the Order-in-Council are. I am not aware that there has been any individual case of Indians applying and being refused. As a matter of fact, since 1923, Indians have not been applying for land in the Highlands.

Mr. T. S. Avinashilingam Chettiar : Is there any agency to enquire into this matter in Kenya ?

Sir Girja Shankar Bajpai : There are two fairly representative and influential Indian societies set up by the Indian community itself in Kenya which keep the Government of India informed of developments.

INTERVIEW OF SIR SIKANDAR HAYAT KHAN, DEPUTY GOVERNOR OF THE
RESERVE BANK, WITH THE FINANCE MEMBER.

698. ***Mr. S. Satyamurti :** Will Government be pleased to state .

(a) whether it is a fact that Sir Sikandar Hayat Khan, Deputy Governor of the Reserve Bank had recently an interview with the Honourable the Finance Member to the Government of India ; and

(b) whether the interview was to ascertain whether and when he could be relieved from his post of Deputy Governorship of the Reserve Bank of India with a view to his leading the Unionist Party in the Punjab ?

The Honourable Sir James Grigg : (a) Yes.

(b) Sir Sikandar Hayat Khan informed me of his wish to resign from the Deputy Governorship of the Reserve Bank.

Mr. S. Satyamurti : May I know whether Sir Sikandar Hayat Khan told the Honourable the Finance Member the reasons why he desired to resign his post on the Reserve Bank ?

The Honourable Sir James Grigg : That is not a question which I feel obliged to answer.

Mr. S. Satyamurti : May I know whether his appointment in the Reserve Bank was for a period of ten years ?

The Honourable Sir James Grigg : No, certainly not.

Mr. S. Satyamurti : What was then the period of his appointment ?

The Honourable Sir James Grigg : Five years.

Mr. S. Satyamurti : May I know whether the Honourable the Finance Member told him at the interview that he would be relieved of his appointment, as and when he wanted to resign ?

The Honourable Sir James Grigg : The next question on the list of questions today relates to this point and I shall answer it then.

Mr. S. Satyamurti : May I know whether the object of the interview was to ascertain from the Government of India whether he would be relieved, and if so, when ?

The Honourable Sir James Grigg : I will answer that in the next question.

Mr. S. Satyamurti : May I know whether Sir Sikandar Hayat Khan told the Honourable the Finance Member that he wanted to give up this post, with a view to lead the Unionist Party in the Punjab ?

The Honourable Sir James Grigg : That is the question in another form which I have already said that I did not feel compelled to answer.

Mr. S. Satyamurti : I want to know whether Sir Sikandar Hayat Khan told the Finance Member that he wanted to be relieved of his job, with a view to leading the Unionist Party in the Punjab.

The Honourable Sir James Grigg : I am not prepared to give any detailed information as to a perfectly private interview.

Mr. S. Satyamurti : I am asking what the Deputy Governor of the Reserve Bank told the Finance Member of the Government of India.

The Honourable Sir James Grigg : And I say I am not going to tell the Honourable Member.

Mr. S. Satyamurti : He must tell me, Sir, unless he satisfies you that, under the Rules and Standing Orders, he can withhold the information from me or from the House.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member knows very well that I cannot compel nor can the Honourable Member compel any Member of Government to answer any question which he thinks he cannot or should not answer.

Mr. M. Ananthasayanam Ayyangar : Has a successor been appointed to Sir Sikandar Hayat Khan ?

The Honourable Sir James Grigg : That does not arise.

Mr. M. Ananthasayanam Ayyangar : Has it been thought of ?

Mr. S. Satyamurti : Sir, I want to make one submission. So far as I understand the Rules and Standing Orders and your rulings, Honourable Members of Government are entitled to say that, in the public interest, they cannot answer certain questions. And you have always ruled, and we have submitted to your ruling, that they are the sole judges of what the public interests are. But surely for a Member to get up and say that he will not answer a question, when you have ruled that the question is in order, is against the Rules and Standing Orders, as I read them.

Mr. President (The Honourable Sir Abdur Rahim) : It is not public interest only. Supposing there is some confidential conversation he is not bound to answer.

Mr. S. Satyamurti : He must say that it is confidential.

The Honourable Sir James Grigg : I said it was a private conversation, and private is the same as confidential.

Mr. S. Satyamurti : Private is not the same as confidential.

The Honourable Sir James Grigg : I quite understand that, in India.

Mr. M. Ananthasayanam Ayyangar : Is it or is it not a fact that Sir Sikandar Hayat Khan has been appointed Revenue Member of the Punjab ?

The Honourable Sir James Grigg : That arises out of part (d) of the next question.

Mr. S. Satyamurti : Sir, on a point of order, my Honourable friend said that he understands that private does not mean confidential in India. He can insult me but he cannot insult my countrymen. I submit that it is an insult to the whole country to say that in India private is not confidential. I submitted that private is one thing and confidential is another,

and I repeat that. A thing may be private, and yet it may not be confidential. But to say that in India private is not confidential is an insult, from which I appeal to you to protect your own countrymen.

The Honourable Sir James Grigg : Sir, I will request you to direct the Honourable Member to pay attention to his own exhortation delivered two minutes ago about a sense of humour. (Laughter.)

Mr. S. Satyamurti : That is an apology, I accept it. (Laughter.)

REPORT ENTITLED "SIR SIKANDAR'S ASSURANCE TO UNIONISTS" PUBLISHED IN THE *Hindustan Times*.

699. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a report in the *Hindustan Times* of the 23rd of July, 1936, entitled, "Sir Sikandar's assurance to Unionists" ;
- (b) whether Sir Sikandar Hayat Khan made a speech in Lahore on the 22nd of July to a meeting of the Unionist Party, held in camera and stated *inter alia* "There are many who publicly stated that our party has died or will soon die but our actions belie such forebodings" ;
- (c) whether Deputy Governors and other officials of the Reserve Bank are allowed to take part in politics and make such political speeches ; and
- (d) whether he is already assured that he will be relieved of his job in the Reserve Bank, in time for his leading the Unionist Party in the Punjab during the ensuing provincial election ?

The Honourable Sir James Grigg : (a) Yes.

(b) I notice that the meeting was said to be a private one. In any case I have not asked Sir Sikandar Hayat Khan whether the report is accurate or not.

(c) I would refer the Honourable Member to the Statement of Objects and Reasons attached to the Reserve Bank Bill.

(d) Sir Sikandar Hayat Khan has been informed that Government are prepared to release him as from the middle of next month.

Mr. S. Satyamurti : May I know the reasons why Government have agreed to relieve Sir Sikandar Hayat Khan of his post of Deputy Governor from the middle of next month ?

The Honourable Sir James Grigg : For two reasons, both of them quite good ones. First, because he wanted to go, and second, because we cannot stop him from going. (Laughter.)

Mr. S. Satyamurti : May I know why his resignation was accepted ?

Mr. President (The Honourable Sir Abdur Rahim) : Supposing you appoint somebody to any post for five years, does that mean that he cannot resign ?

Mr. S. Satyamurti : Sir, if you will kindly look at the Reserve Bank Act, you will find that he cannot effectively resign, unless the resignation has been accepted by the Government of India. My Honourable friend

said, he cannot stop him, but he can. I am asking the reasons why Government agreed to accept the resignation, when that discretion is vested solely in the Government of India, under the Reserve Bank Act.

The Honourable Sir James Grigg : I think the Honourable Member is stretching the meaning of the Reserve Bank Act too far. If either the Governor or Deputy Governor wished to resign, there is no power on earth to prevent them resigning.

Mr. S. Satyamurti : May I know whether it is or it is not a fact that the Government of India wanted to help the Unionist Party in the Punjab, and therefore to oblige them, in order to fight the progressive parties, obliged Sir Sikandar Hayat Khan and allowed him to resign in time for the election ?

The Honourable Sir James Grigg : No, Sir, absolutely untrue.

Mr. S. Satyamurti : In view of this high temper of my Honourable friend, will he be good enough or chivalrous enough to tell me and this House whether Sir Sikandar Hayat Khan did or did not tell him that he wanted to lead the Unionist Party in the Punjab ?

The Honourable Sir James Grigg : The Honourable Member is trying to provoke a recrudescence of the slight rise in temperature which occurred on the last question (Laughter.)

Mr. S. Satyamurti : To say that it is untrue is nonsense : because he has no business to say it is untrue, when I can assert that Sir Sikandar Hayat Khan told him that, as he wanted to lead the Unionist Party, he desired to be relieved of his job.

The Honourable Sir James Grigg : The question I was asked was whether it was a definitely put up job in order that Government might help the Unionist Party. That is one question which I answered quite definitely in the negative. The other is, whether he told me of his intention, and this I refused to answer.

Mr. S. Satyamurti : May I know if the attention of Government has been drawn to the fact that, soon after his retirement next month, he will be appointed Revenue Member of the Punjab Government which will be rendered vacant for him, immediately on the day on which he is relieved of his post of Deputy Governor of the Reserve Bank ?

The Honourable Sir James Grigg : I believe I saw a report to that effect in yesterday's telegrams. I did not notice the exact date.

Mr. S. Satyamurti : Is it an accident, or a coincidence, or a deliberate arrangement ?

The Honourable Sir James Grigg : The Honourable Member is as capable as I am of answering that.

Mr. N. M. Joshi : Do the Government of India repent having appointed a politician to a post which was intended for a financial expert ?

The Honourable Sir James Grigg : No ; on the contrary I think the appointment was an extremely good one and Sir Sikandar Hayat Khan has rendered extremely good service to India in that post.

Mr. S. Satyamurti : Is it because of his extremely good services that he has been allowed to go away ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow any further discussion.

LETTERS ISSUED FROM THE ROYAL CONSUL GENERAL OF ITALY FROM CALCUTTA.

700. ***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to the letters issued from the Royal Consulate General of Italy from Calcutta, week after week, and particularly the issue of the 13th of July, 1936 ;
- (b) whether they have noticed a reference to the Ethiopian Emperor as a fugitive and his speech as a mischievous one ; and
- (c) whether they have noticed an attack on the League Assembly ?

Sir Aubrey Metcalfe : (a) to (c). Yes.

Mr. S. Satyamurti : May I know whether this gentleman has retired from Calcutta ?

Sir Aubrey Metcalfe : I think he has actually left. If he has not left he will be leaving within the next day or two.

Mr. S. Satyamurti : I may say that in all his life nothing became him so much as the leaving of it.

NEGOTIATIONS FOR THE ESTABLISHMENT OF BETTER TRADE RELATIONS WITH FOREIGN COUNTRIES.

701. ***Seth Govind Das** : Will Government be pleased to state :

- (a) whether they have arrived at any decision, after giving notice of termination to the Ottawa Agreement, to negotiate with Empire and non-Empire countries for the establishment of better trade relation with other countries for our country ;
- (b) what the countries are, excluding Japan, with whom correspondence so far has taken place on the subject ;
- (c) what the suggestions are of the various countries, made whether in answers to communication made by Government on the matter or made voluntarily by them ;
- (d) what are the terms suggested by them for the future trade relations with other countries and whether such terms have been outlined on any one principle underlined, if so, what the principle is ;
- (e) whether they have invited expert commercial opinion of this country before deciding the principle to be adopted in the matter of negotiation for the establishment of trade relation with other countries ; if not, the difficulties standing in their way for not doing so on a vital matter of such magnitude ;
- (f) whether, and if so, when this House will discuss the merits of the negotiations conducted by Government and whether any opportunity will be afforded to this House for the scrutiny of the principles involved, before committing the country, whether provisionally or finally, to the terms of trade relationship ;

(g) whether they will place the entire record of deliberations on the subject, up-to-date, on the table for timely suggestions, if any ; and

(h) in the event of the answer to part (g) being in the negative, whether they will state their reasons therefor ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (d). The attention of the Honourable Member is invited to the reply given by me to Mr. S. Satyamurti's starred question No. 35 in the current Session.

(e) Representative commercial bodies in India have been consulted as to the lines on which it is considered desirable to conclude a new Agreement with His Majesty's Government in the United Kingdom.

(f) The Government of India are under no constitutional obligation to place before the House for discussion the terms of a trade agreement before it is concluded.

(g) and (h). No, Sir. Government are not prepared to disclose the nature of the deliberations that have taken place on the subject.

Prof. N. G. Ranga : What steps have been taken by Government to invite the opinion of agricultural interests in this country in regard to this renewal of the Ottawa Trade Agreement ?

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that question.

Prof. N. G. Ranga : May I know, Sir,....

Mr. President (The Honourable Sir Abdur Rahim) : I think the question has been fully answered. The Honourable Member must look up the questions and answers.

Prof. N. G. Ranga : He has not referred me to any particular answer.

Mr. President (The Honourable Sir Abdur Rahim) : When the Honourable Member says he has answered the question, he ought to look up the questions and answers.

Prof. N. G. Ranga : I bow to your ruling, Sir. I am only submitting to you that as far as this particular question is concerned, there is not one mention made here of consulting the opinion of agricultural interests : there has not been any answer given on that particular point.

Mr. President (The Honourable Sir Abdur Rahim) : Not now, but previously : that is what he says.

Prof. N. G. Ranga : If he has given it previously it is permissible to him to mention the question to which he has given an answer on this particular point.

Mr. President (The Honourable Sir Abdur Rahim) : When an Honourable Member says that he has answered the question previously, it is open to any Honourable Member to ask him when.

Prof. N. G. Ranga : All right, Sir. When was it answered and in answer to what question did the Government of India give that answer to my supplementary question just now ?

The Honourable Sir Muhammad Zafrullah Khan : It was a supplementary question to a similar question put by the same Honourable Member with regard to the same matter to which I gave a reply.

PUBLIC OPINION ON THE REPORT OF SIR OTTO NEIMEYER.

702. ***Seth Govind Das :** Will Government be pleased to state :

- (a) whether they have taken a complete and minute conspectus of the public opinion, expressed from various press and platforms in this country and outside, on the Neimeyer Report ;
- (b) the number of opinions of this country against the report in comparison with those that are in favour ;
- (c) in the event of the majority being against the report, whether they have communicated the matter to His Majesty's Government either in general or in particular details ; and
- (d) if so, what is the result thereof ; and if not, the reasons of the Government therefor ?

The Honourable Sir James Grigg : (a), (b), (c) and (d). I would refer the Honourable Member to the answers to questions Nos. 31, 213 and 294.

RECOMMENDATIONS OF THE AMERY TRIBUNAL IN RESPECT OF THE INDO-BURMA FINANCIAL SETTLEMENT.

703. ***Seth Govind Das :** Will Government be pleased to state :

- (a) the procedure adopted for the work of the Application Committee appointed during last winter to implement the recommendations of the Amery Tribunal in respect of the Indo-Burma financial settlement ;
- (b) whether the work will be carried on within the four corners of the recommendations ;
- (c) who are in charge of the work of settlements on each side ;
- (d) how long the task will take to complete the settlement ;
- (e) how far the work has gone till now ;
- (f) whether there is an umpire to intervene in case of disagreement between the Governments of Burma and India ; if so, who the umpire is ;
- (g) whether certain subjects of much importance will be disposed of before the date of separation ;
- (h) when the preliminary report of the Application Committee is likely to be in the hands of the Government of India and London ; and
- (i) whether they have considered that the entire settlement cannot be completed by any manner of means by or before the date of separation ; and if not ; what are the difficulties facing the Government in the matter ?

The Honourable Sir James Grigg : (a), (b), (c), (d), (f), (g), (h) and (i). I would invite the attention of the Honourable Member to paragraphs 87-93 of the Amery Tribunal's Report, to the Press Communiqué, dated the 14th January, 1936, and to the reply given by me to Mr. Satyamurti's starred question No. 462 on the 17th September, 1936.

(e) Preliminary work is being done.

REFUSAL OF THE BRITISH DELEGATION AT ADDIS ABABA TO PROTECT INDIANS.

704. *Seth Govind Das : Will Government be pleased to state :

- (a) whether it is a fact that the British Delegation at Addis Ababa refused to give protection to Indians in that city during the recent Italo-Ethiopian War ;
- (b) whether they have taken any action in the matter ;
- (c) whether they have ascertained from the concerned Secretary of State in His Majesty's Government the reasons actuating their refusal to protect Indians in Addis Ababa ; and
- (d) what conclusion Government have arrived at in the matter ?

Sir Aubrey Metcalfe : (a) No.

(b) to (d). Do not arise.

PRODUCTION OF QUININE IN INDIA.

705. *Seth Govind Das : Will Government be pleased to state :

- (a) the Indian provinces that grow quinine and the quantities they produce annually ;
- (b) the basis on which the price of quinine is fixed by the Government ;
- (c) whether they have considered that each province in India could be encouraged to produce enough quinine in order to be self-sufficient in their wants for the future ; and
- (d) whether they propose to grow sufficient quinine in India instead of depending, in future, on the Arakan Coast supplies, after Burma stands separated from India ?

Sir Girja Shankar Bajpai : (a) Cinchona from which quinine is produced is at present grown in Bengal and Madras and in Burma where the plantations belonging to the Government of India are situated. A statement showing the quantities of quinine sulphate manufactured for the three Governments engaged in the production of the drug during the period 1931-32 to 1934-35 is laid on the table of the House.

(b) The present price was fixed in 1926 in relation to the world market price and the cost of production.

(c) The attention of the Honourable Member is invited to the answer given to questions supplementary to Dr. T. S. Rajan's question No. 274 on the 11th February, 1936.

(d) India does not depend now to any appreciable extent on the existing supplies of bark from Burma. The question whether Bengal and Madras should increase their production so as to meet India's requirements is now a practical question primarily for those two Governments.

Statement showing the Production of Quinine Sulphate.

						Government of India.	Government of Bengal.	Government of Madras.
						lbs.	lbs.	lbs.
1931-32	..	..	..	..	..	1,536	43,534	22,307
1932-33	..	..	..	..	..	3,981	42,239	23,153
1933-34	..	..	..	..	..	5,739	45,728	22,716
1934-35	..	..	..	..	..	3,224	52,964	22,314

Seth Govind Das : When was the price fixed ?

Sir Girja Shankar Bajpai : I have said in 1926.

Seth Govind Das : Do Government not think that enough time has passed and that conditions having changed there should be less cost of production and under the circumstances will Government take steps to reduce the price ?

Sir Girja Shankar Bajpai : No : the passage of time has not affected the cost of production. The cost of production, as I stated in answer to a question during the last Session of the Assembly, is very near the price which we charge.

Prof. N. G. Ranga : Is it not a fact that in the report of the Public Health Commissioner it is stated that the sale price is Rs. 18 per pound, whereas the cost of production is only Rs. 7½ ?

Sir Girja Shankar Bajpai : No : my Honourable friend is probably referring to the report of the Government of Bengal, where the cost of production is, I believe, given as Rs. 7½ a pound. We have taken up the matter with the Government of Bengal and it now transpires that the cost of production is probably higher than Rs. 7½.

Prof. N. G. Ranga : How do the Central Provinces supply themselves with necessary quantities of quinine ? Do they purchase it from the Government of India ?

Sir Girja Shankar Bajpai : The Central Provinces, speaking from memory, lie in the field of distribution of the Government of Madras and not of the Government of India.

Pandit Lakshmi Kanta Maitra : What is now the cost of production in Bengal ?

Sir Girja Shankar Bajpai : They have not yet given me a definite answer to that question.

Seth Govind Das : When is a definite answer expected ?

Sir Girja Shankar Bajpai : I cannot say when the Government of Bengal will have collected the material on which an answer can be based.

Seth Govind Das : Will the Government ask them to send a definite answer early so that the real cost of production could be known ?

Sir Girja Shankar Bajpai : I can assure my Honourable friend that we have impressed upon the Government of Bengal the desirability of clearing up the question of the cost of production of quinine in Bengal as early as they can.

Prof. N. G. Ranga : Are Government aware of the fact that Mahatma Gandhi has been recently affected by malaria and that the Central Provinces Government has not been taking any steps worth mentioning to fight this scourge of malaria ?

Sir Girja Shankar Bajpai : I regret that Mahatma Gandhi should have suffered from malaria, but I am quite confident that any delay that may have taken place in his recovery from malaria has not been due to the price of quinine fixed by the Government of India.

Mr. M. S. Aney : Is the Honourable Member aware that Mahatma Gandhi was removed to the Civil Hospital at Wadha and that he was treated by the Civil Surgeon there ?

Sir Girja Shankar Bajpai : I am glad to hear that, but that also does not affect the answer that I have given.

PRICE OF PRODUCTION OF QUININE.

706. ***Seth Govind Das :** Will Government be pleased to state :

- (a) the price of production for quinine per pound ;
- (b) the profit they get thereof ;
- (c) whether the price of quinine, as fixed at present, could not be reduced ; and
- (d) when they propose to reduce the price of quinine, if not, why not ?

Sir Girja Shankar Bajpai : (a) and (b). The attention of the Honourable Member is invited to the answers given to parts (c) and (d) of Dr. T. S. S. Rajan's question No. 272 on the 11th February, 1936.

(c) On the basis of the Government of India's present cost of production the answer is in the negative.

(d) The Government of India will have no power, after the introduction of provincial autonomy, to regulate the price of Government quinine other than their own. The latter, on existing costs of production, cannot be reduced.

TERMINATION OF THE OTTAWA TRADE AGREEMENT.

707. ***Seth Govind Das** : Will Government be pleased to state :

- (a) whether it is a fact that they gave notice of the termination of the Ottawa Trade Agreement on the 13th May last to the Board of Trade, Great Britain ;
- (b) the points raised by them in the notice ;
- (c) whether a communication followed the cable of termination of notice ;
- (d) if so, whether they will lay on the table a copy of that communication and the cable giving notice ;
- (e) whether the Government in the United Kingdom replied to the notice and the various points raised therein ; if so, what they are ;
- (f) whether the points mentioned in the notice of termination related to the procedure for a fresh agreement suggested ; and
- (g) whether they will place on the table a copy of the entire correspondence that followed the serving of the termination notice between the Government in the United Kingdom and the Government ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir.

(b) to (g). Government are not prepared to disclose the nature of the correspondence that has taken place with the Secretary of State on the subject.

Seth Govind Das : Is it a fact that the Government in this respect acted as an agent of this House because a Resolution was passed in this House to terminate that agreement ? Is it not therefore only fair to the House that they should disclose the facts to the House ?

The Honourable Sir Muhammad Zafrullah Khan : The Government did not act as agent of the House. The rest is argument.

Mr. S. Satyamurti : May I know whether the communication contained merely notice of termination, or any other point for further negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : That is asking in another way a portion of the same question as the previous one.

Mr. S. Satyamurti : I want to know whether the communication contained anything except the notice of termination.

The Honourable Sir Muhammad Zafrullah Khan : So far as the communication with regard to notice of termination is concerned, it only contained notice of termination.

Seth Govind Das : Did the Government give notice to terminate after the Resolution of this House ?

The Honourable Sir Muhammad Zafrullah Khan : They gave notice of termination in pursuance of the Resolution of this House.

Seth Govind Das : Is it not therefore in fairness to the House to disclose the communications which have been addressed from time to time on this subject ?

The Honourable Sir Muhammad Zafrullah Khan : No : it is not necessarily in the fitness of things.

Mr. Mohan Lal Saksena : Is it a fact that pending a new agreement the Government propose to continue the Ottawa Agreement ?

The Honourable Sir Muhammad Zafrullah Khan : I made a statement to that effect in answer to a supplementary question put by Mr. Satyamurti during the current Session.

Dr. N. B. Khare : Did the Government act as an agent of the British Government ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

RECOMMENDATION FOR A SECOND CHAMBER FOR ASSAM.

708. ***Mr. Kuladhar Chaliha :** Will Government please state :

- (a) whether the Government of Assam made any recommendation for a Second Chamber in Assam to the Government of India, and the Government of India in turn made any recommendation to the Secretary of State for India during the discussion of the Government of India Act, 1935, in the House of Lords ;
- (b) whether they received any memorial from any person of Assam, or any copy of the memorial from the Secretary of State ; and
- (c) if so, whether they will lay on the table a copy of the said memorial, with the names of the signatories, with their respective addresses and occupations ?

The Honourable Sir Nripendra Sircar : As I have already stated in reply to the Honourable Member's unstarred question No. 5, dated the 31st August, 1936, unanimous recommendation in favour of a Second Chamber was made by the Government of Assam at the time the Government of India Act, 1935, was under consideration in Parliament. The Government of India communicated this recommendation to the Secretary of State.

(b) and (c). A few representations were received at the time by the Government of India ; I do not think any useful purpose will be served by laying on the table copies of these memorials.

Mr. Kuladhar Chaliha : May I know whether any resolution from any public body was received for a Second Chamber in Assam during or before discussion of the Government of India Act, 1935, in the House of Commons or House of Lords ?

The Honourable Sir Nripendra Sircar : I have already said that some representations were made.

Mr. Kuladhar Chaliha : By any public body whatever in Assam ?

L333LAD

c

The Honourable Sir Nripendra Sircar : The longest representation was one which was signed by about 500 or 600 persons : whether they represented a body or not, I am not sure.

Mr. Kuladhar Chaliha : Is it a fact that Sir Walter Smiles, a conservative Member of Parliament secured signatures of persons who were interested in tea and petrol ?

The Honourable Sir Nripendra Sircar : I have not heard of that : it is not known to me.

Mr. Kuladhar Chaliha : Is it a fact that he engineered the whole memorial and he secured the signatures of so many and submitted it ?

The Honourable Sir Nripendra Sircar : I have no definite information ; but I suspect it is a fable, and not a fact.

Mr. Kuladhar Chaliha : Are the Government aware that he came to Assam some time when the Government of India Act was under discussion in the House of Lords, and secured the signatures of some people interested in tea and petrol when the Act was actually under discussion in the House of Lords and Government was actively helping Sir Walter Smiles ?

The Honourable Sir Nripendra Sircar : My friend has rolled up three different questions into one. Jointly and severally to them, I say no.

THE ARYA MARRIAGE VALIDATION BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will
12 Noon. now resume consideration of the Bill to recognise and remove doubts as to the validity of intermarriages current among Arya Samajists, as reported by the Select Committee. Amendment No. 9 was under discussion when the House rose.

The question is :

“ That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

‘ 2. For the purpose of this Act, ‘ Arya Samajist ’ means a person who is a member of any Arya Samaj for a period of at least three years prior to the date of marriage ’.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Bajoria, amendment No. 10.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I move :

“ That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

‘ 2. For the purpose of this Act, ‘ Arya Samajist ’ means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage ’.”

Sir, this amendment is in the nature of a compromise. My friend, Mr. Gupta, also seeks to define that Arya Samajist is a person who is a member of any Arya Samaj prior to the marriage, and I also want to define

in the same way. But I only want to make a provision that he must be a member of any Arya Samaj for at least one year prior to the date of the marriage. My reason for making this suggestion is that any person who is not an Arya Samajist and who wants to enjoy the benefits of this Act and wants to get married under it any girl either outside his own caste or religion can do so. If this provision is not added, any person who is a Hindu and who wants to marry a girl outside his caste or religion will seek protection under this Bill, declare himself to be an Arya Samajist and get the benefit of this Act. That, I think, is very unfair and unjust. The Honourable the Law Member said the other day in connection with my previous amendment that what I sought was tantamount to a self-denying ordinance in regard to restricting marriages for three years. Nothing of the sort. Arya Samajists have been in existence for the last 60 or 70 years, but still they were celebrating marriages without any intervention of an Act of this character, and there was no restriction on marriages. Even now their marriages are not prohibited, and I do not think that either my friend, Mr. Gupta, or my friend, Dr. Khare, the Mover has given a waiting list of marriages which have been suspended pending the passing of this measure. I think, Sir, a provision of this kind is absolutely essential. The other day Honourable Members of all shades of opinion said that legislation was necessary, and it is necessary to define an Arya Samajist under this Act. I think, Sir, my amendment is a very modest one. I may tell my friends that according to the Hindu calendar for the next four months there is no auspicious date for celebrating marriages. Therefore, if the Arya Samajists were to set up a register and enter in it the names of all persons who intend to marry I don't think any inconvenience will be caused to any one. I hope my friend, Mr. Gupta, and the Honourable the Law Member will accept my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

- ‘ 2. For the purpose of this Act, ‘ Arya Samajist ’ means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage ’.”

I find there are other amendments too which seek to define an Arya Samajist. They are all in the name of Mr. Gupta. Does he want to move them ?

Mr. Ghansiam Singh Gupta (Central Provinces Hindi Divisions : Non-Muhammadan) : No, Sir, I am not moving any from Nos. 3 to 8.

Mr. President (The Honourable Sir Abdur Rahim) : Now, amendment No. 10 which has been moved by Mr. Bajoria is under consideration.

Mr. Ram Narayan Singh (Chota Nagpur Division : Non-Muhammadan) : This question has been thoroughly discussed. I do not understand why my Honourable friend, Mr. Bajoria, should be so very anxious about the definition of the word “ Arya Samajist ”. A man is an Arya Samajist the moment he declares himself to be an Arya Samajist, and I do not think that it is necessary that he should be under apprenticeship for

[Mr. Ram Narayan Singh.]

some time in order to have the benefit of this law. I, therefore, oppose this amendment. My Honourable friend said that this amendment has been tabled by way of a compromise. But I can tell him that nobody is going to accept that compromise.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadian) : I also oppose this amendment. This amendment is also on the same lines as the last one which was negatived by the House for valid reasons, the only difference being that the present one provides for a period of one year whereas the earlier one provided for a period of three years. I do not know whether there is any register kept for followers of all faiths, Sikhs, Jains, Brahmos, Hindus, Muslims, or Christians, and if no such register is kept, I do not see why any register should be maintained for Arya Samajists alone and why a distinction should be made only in the case of the Arya Samajists. The followers of all faiths should be on a par and I do not see why the Arya Samajists alone should be on probation for one year for good behaviour. Sir, I oppose the amendment.

Mr. Umar Aly Shah (North Madras : Muhammadan) : Mr. President, Hinduism is a very old and great religion, but what is this name, Hindu ? I have seen nearly twenty-seven languages in India, which have been spoken on linguistic basis, but there is no such word as Hindu in ancient books. The other day, a discussion had come in this connection, and the Honourable the Law Member showed the names of some Hindu books, but I do not understand how the mere quoting of books can give the origin of the word Hindu. This word Hindu might have come some 12 hundred years ago, as my Honourable friend, Mr. Sri Prakasa, told us the other day, but this word is not used in any Sanskrit literature or any other Indian literature. Gradually, from some 500 years, this word Hindu was used by the poets in the following way :

“ *Nayachea Hindukam Parvanadattika Ragidabbukam.* ”

(It means, “ I do not beg Hindu. If a ceremony will come, they will give a copper. ”)

“ *Hindurajyarama Durandhara Bhujahi Gramani, etc., etc.* ”

(“ I want to remove this vulgar word Hindu. ”)

When the Hindus were defeated, the foreigners used this word Hindu to them, not with a good meaning. The amendment says that Arya Samaj is part of Hinduism.

Mr. President (The Honourable Sir Abdur Rahim) : That is not the amendment under consideration. The amendment under consideration is No. 10, and not No. 9. I think the Honourable Member is dealing with No. 9.

Mr. Umar Aly Shah : Sir, I will come to the point. Gradually some of our Indian scholars supported with this interpretation “ *Heenam Dushyateati Hindu* ”. By this, “ Hindu ” means great men. Then, the Arya Samajists also might have taken that name. “ Arya ” means noble men. But the founder of the Arya Samaj, Dayananda Saraswati, wrote a book called “ *Satyahardha prakasa* ” in which he had given some interpretations on Vedic and Shastric quotations, through them he condemned Hinduism, but I do not know whether they are the correct and complete

interpretations as those given in ancient times by Vedaranya and Sayanachariar. This Bill wants to legalise inter-caste or inter-religious marriages. My Honourable friend, Dr. Khare, has brought forward this Bill. Like this Bill, Saint Babu Dr. Bhagavan Das introduced a Bill which comes shortly. If they follow the Vedas and Shastras, they cannot do like this. The Vedas and Shastras say :

“ *Jyathi Bhrashta Matha Bhrashta, Bhrashta Nareecha Satikulam, Satatam Narakayanti, Papakarma Phalam Vrajatt.* ”

“ Whoever spoiled religion or creed and woman's chastity of caste, must go to hell. ”

If you do so, you spoil the Hindu religion or any religion. Manu says :

“ *Jyathyanthara Vivaheana, Jyatheava Varna Sankaraha.*

Sankarotparna Varnanam, Anarhma Karma Machareat. ”

“ If inter-caste marriages are introduced, religion will be spoiled. ”

If religion is spoiled, some non-religious and non-caste persons will be born. They have no right to do *Karma*. Through them *Karma* will be spoiled, and, as you know, *Karma* is the fundamental principle of Hinduism. Without *Karma* there is no Hinduism. If Hinduism is spoiled, then Arya Samaj also is spoiled. This will be very dangerous. Manu says :

“ *Karma Kanda Vinasyamthi, Luptha Pindothaka Kriya, Gachyatheva Narakayanti, Pitru Devata meadrusam.* ”

If you spoil *Karma*, even your ancients will go to hell. Through this they can go to *naraka* or sin. The same thing is repeated in Gita. Times have changed and civilisation has changed, mentalities are also changed. So many races have come to India. I do not wish to define Hinduism. It is not my business, but I do not want to spoil the religion. India has been called Bharatvarsha or Bharatkhandha or the land between two mountains and two oceans :

“ *Vindhya Himalaya madhya, Adhato Sagara Dwayam*

Yeatat vyapta Maha Deshah, Bharatakhandha Prasidhah. ”

In Persian, it is said that Hindu means servant, and if we read the history we find that foreign people came to India, and, in order to insult the people, gave this name. For instance, if we write a letter, we will use “ Maharajah ” and “ Sreeman ”, which mean Lord and Noble. Foreign etiquette is obedient servant. Therefore, we are not servants, though our Raj had gone. The Arya Samaj has only recently started in India. They say that they are a part of Hinduism. I do not know how they claim to be a part of Hinduism. They believe in “ Satyarth Parkash ” which is their book. They condemn many of the laws of the Hindus, and, simply for the sake of this Bill, they come before this House and say that they are part of Hinduism. I do not know how they can say it. They believe another religion. They believe ten commandments. I do not know what is meant by ten commandments and one of them says that if a woman has no children, she can resort to adultery. How can this be supported by Bharateayas. Bharateayism is a great, pious, holy and peaceful religion. Like these evils and immoral marriages they will never want. With these words, I support Mr. Bajoria's amendment.

Dr. Bhagavan Das (Cities of the United Provinces : Non-Muhammadan Urban) : Sir, I oppose my Honourable friend, Mr. Bajoria's amendment. I cannot understand his insistence upon a definition of the words "Arya Samajist". It seems to me that when a well recognised minority community seeks the help of the legislature in order to be enabled to live its life in its own way more fully and smoothly, the legislature ought to give to that community such help, except in so far as that help may be likely to injure the just rights and interests of any other community. The Arya Samajists are a well recognised body numbering something like 10 lakhs according to the last census. Mr. Navalrai instanced one case from his own experience in which some difficulty had been felt in a certain law suit, because it was doubtful whether one of the persons concerned in that law suit was or was not an Arya Samajist. But the law Courts and the judicial officers exist just for the purpose of dealing with such difficulties. The most carefully worded and the best drafted laws that exist on the Statute-book are always giving rise to litigation, and each case has to be decided on its merits by the Court concerned. If Mr. Navalrai could have given not one instance but even a hundred instances, that would not have been sufficient reason for insisting upon the definition of the words "Arya Samajist". As the Leader of the House has pointed out, and as has been made clear by many other colleagues, there are laws existing on the Statute-book which deal with Hindus, Muslims, Christians, Parsis, Buddhists, Jains and Sikhs, and in no case has it been found necessary to define any of them. Why should it be necessary to define the "Arya Samajist"? If Mr. Bajoria or any of the supporters of his amendment could make it clear to the House that the absence of such definition would cause serious harm to the just interests of any other community, then there would be good ground for accepting his amendment or even for throwing the Bill out. The other day Sir Muhammad Yakub said that it was very easy to define Muslim. He said that belief in the Kalma was quite sufficient to mark out the Muslim. I do not know any Arabic, but I have learnt from my learned Maulvi friends that that is very doubtful. The first part of the Kalma is common to the heart of all the great religions; and the second part of it, I have been told by those learned Maulvi friends, is not essential and indispensable for a Mussalman to believe in; also, the second part of the Kalma does not contain any word which makes it clear that the Prophet Muhammad is the *only* prophet sent by God to teach humanity. There are other prophets. There have been other prophets. Indeed the prophet Muhammad himself has plainly declared over and over again that there are other prophets. He has said :

" *Innahū la-fī zubūr-il-awwālīn.* "

"That which I am teaching you is to be found in the teachings of my predecessors also"; and, as a matter of fact, the first part of the Kalma is repeated at least 10 times in the book of Isaiah. The prophet Muhammad has also said : "*Le kullé qaumin hād*" : "God has sent teachers to all races". He has also said : "*Lā nofarriqo bainā ahadīm min rusuleh*". "We make no difference between the prophets", that is to say, all are to be honoured equally. Now if this be so,—as I said, I do not know Arabic, but I have learnt this from my Maulvi friends—then it is clear that the second part of the Kalma does not say that the prophet Muhammad is the only prophet. He is one of the greatest prophets, no doubt, and this

I myself sincerely believe. I can therefore sincerely and conscientiously repeat the Kalma and claim to be regarded as a true Muslim while at the same time remaining a Hindu also. In these circumstances, Sir, seeing that the definitions of such denominational names are so difficult, I think the House should throw out Mr. Bajoria's amendment. If I am not very much mistaken, the current conflict between the Ahmadiyas and the Ahrars, which has been disturbing the whole of the Punjab at least, for a long time now, turns mostly upon the right interpretation of the second part of the Kalma. The Ahmadiyas do not regard the prophet Muhammad as the final and the only prophet. In view of such facts, it seems to be perfectly clear that it is very difficult, almost impossible, to define such denominational names, and that in any case it is absolutely unnecessary to define the term "Arya Samajist" in the present Bill. Sir, I oppose the amendment.

Mr. M. S. Aney (Berar Representative) : Sir, the speech which we have listened to with great respect just now has prompted me to rise in my seat and I shall make a few observations. I know the difficulty of defining a thing like "Hindu", "Arya Samajist", "Sikh", "Jain", "Muhammadan" or anybody else, but as my Honourable friend, Mr. Satyamurti, observed other day in his very eloquent speech on this Bill, that there are occasions when it becomes necessary to understand what we do and imperative to define what we mean. Now here some Honourable Members have come before this House and urge upon it to make a certain law,—in order to validate certain kinds of union between persons who call themselves "Arya Samajists". The Bill is for this purpose. Now an Arya Samajist is a Hindu. That point may also be conceded; notwithstanding the learned dissertation of my Honourable friend over there, I maintain that an Arya Samajist is a Hindu in every sense of the term. About that, there is no doubt. Now for the purposes of this Bill one thing is necessary. We have to distinguish an Arya Samajist from the major class of Hindus. We have to find out who is an Arya Samajist in order to see whether a proper person is getting advantage of this Bill or not. Suppose a marriage between two persons of different castes or religions and of opposite sexes (Laughter) takes place, and for one reason or another the legality of that marriage is questioned in a Court of law by somebody who urges that this marriage is invalid. Now the married persons will say, "we are Arya Samajists, and therefore, although under the ordinary Hindu law this marriage between us on account of its being an inter-caste marriage is an invalid marriage, we are Arya Samajists and therefore our marriage is valid". That is what they can say. The other person who opposes them says,—"they are not Arya Samajists". You may avoid coming to a decision on this question here, Sir, but it is not that this question will not arise at all in connection with a marriage of this kind. Now if you do not decide it, the Court will have to decide it, and what shall be the criterion for the Arya Samajist to prove in the above case that the persons who married were Arya Samajists at the time of marriage? They are avoiding the issue today. They think, "if we try to define it, there will be so many difficulties", and probably the Bill which they want to see passed today may not be passed; in fact some of them may even be repenting that the motion for circulation which I had moved was not accepted by them, because that would have given them sufficient time to consider all these points. It is not true that the definition of Arya Samajist is not necessary, for anybody to understand to whom this law applies. The definition

[Mr. M. S. Aney.]

given by my friend, Mr. Bajoria, is to the effect, "Arya Samajist is a person, who is a member of any Arya Samaj". What is an Arya Samaj is a different thing. I remind the House of what my Honourable friend, Dr. Bhagwan Das, for whom I have got a great reverence, has just said. He observed, that an Arya Samaj is a recognized body. That is perfectly true. So the membership of any Arya Samaj must also be a recognized and recognisable thing. If the membership of any Arya Samaj, which is a recognized body, is something of an undefinable nature, then I believe that we are creating a great difficulty as in that case, an "Arya Samajist" will denote something which is of a very elusive nature, and incapable of definition. We are not legislating for those whose identity we cannot trace but for those who exist in this world,—a concrete and tangible thing, not an intangible thing ; we are legislating for the benefit of definite members of a fraternity whose concreteness will have to be proved in a court of justice after going through conflicting pieces of evidence and according to the discretion of the judge. Are you going to have the status of a member of any Arya Samaj dependent upon the discretion of the court which varies like chancellor's foot, the varying whim of the judge, before whom such a case will go, or are you prepared to ask the Arya Samajists now to know precisely who they are and how best they will like to describe themselves ? You must know what an Arya Samajist means. My friend says that he cannot define the Arya Samajist, he virtually admits in my opinion that he does not know for whom he is legislating.

Bhai Parma Nand (West Punjab : Non-Muhammadan) : There are cases which come before the court. There are cases of doubtful marriages among the Hindus and the Muslims. The court decides on a matter of fact by means of evidence. Therefore, in this case also the court will take the evidence of both parties into consideration and decide the matter.

Mr. M. S. Aney : I am perfectly content to accept my Honourable friend's position. The fact is that today we are not in a position to define this thing. That is the position.

Bhai Parma Nand : I do not see any need ; there is no need of defining it.

Mr. M. S. Aney : My difficulty is this. I do not say that there is no need of a definition. I can understand the difficulty of defining it and the cause of the difficulty. I am prepared even to give up the point but when somebody gets up and says that it is unnecessary to define that, I do not entirely agree with those persons. If we *can* define it, we must make an attempt to do so and we should not leave it to the court to define it later on. After all, some criterion will have to be given to the court, some data will have to be placed before the court to enable it to come to a conclusion, that a particular person who satisfies certain minimum requirements can be really termed an Arya Samajist. The object of a definition should be to make out that such and such a person has joined the Arya Samaj on a particular date, that his name will be found in a register of the initiation ceremony, or something like that, or that he is born of parents who were at the time of his birth Arya Samajists themselves. If that is so, can you not conceive of all those conditions and circumstances and prepare a definition so that the point may not be left entirely for investigation and decision to the discretion and resourcefulness of the court ; and after this is conceded, the other points which would arise is whether you regard the period

of one year, three years, six months or a shorter one as the proper period for the recognition of any person as a member of any Arya Samaj for the purpose of this Act. Or whether you may like to eliminate the point of time altogether from the definition. You may eliminate the period of one year if you like. I do not mind the length of the period. But there should be no objection to accept what my Honourable friend, Mr. Bajoria, suggests that a person who is a member of the Arya Samaj, he is an Arya Samajist for the purpose of this Act.

Dr. N. B. Khare : How would you define the Arya Samaj ?

Mr. M. S. Aney : I take it that the Arya Samaj is a recognised body.

Dr. N. B. Khare : My question is how an Arya Samajist is to be defined. Your view is that anybody who is on the register of the Arya Samaj is an Arya Samajist. Then the question arises what is an Arya Samaj ?

Mr. M. S. Aney : I was helping my friend more than he has been able to help me. I was accepting the position which my Honourable friend, Dr. Bhagwan Das, has taken up, namely, that the Arya Samaj is a recognised body existing in this country for the last 60 years and more. That is an established fact which does not stand in need of any demonstration at all. If my friend wants a definition of Arya Samaj also, he is at liberty to give that definition. I have no objection. But you should have no objection in accepting the definition of an Arya Samajist which my Honourable friend, Mr. Bajoria, has suggested.

Dr. Bhagavan Das : May I ask a question ? Do the structure and the grammar of the English language themselves make it self-evident that "Arya Samajist" means a member of the Arya Samaj ? An Arya Samajist can mean nothing else than one who is a member of the Arya Samaj by the nature of the English language itself.

Mr. M. S. Aney : A matter may be self-evident to the linguist, but sometimes it is better to do a thing at the risk of redundancy rather than to leave it for somebody else to interpret and decide. If an Arya Samajist evidently means one who is a member of the Arya Samaj, then there should be no difficulty for my friend to accept the definition of my friend, Mr. Bajoria. I can understand if he objects to the length of the period mentioned there.

Ehai Parma Nand : Just at the time of marriage he can go and get himself registered.

Mr. M. S. Aney : He must be a regular member of your Samaj at least a day previous to marriage and your Samajists must be prepared to say that he is a member of your fraternity. In other words, he must be a *bonâ fide* Samajist. That is the meaning of it and that can be made perfectly clear by having some definition. If you find it too difficult as the Honourable the Law Member said, then you are giving up the thing in despair. You think that it is rather difficult to define it. The amendment of my Honourable friend is perfectly clear, and it is for you to say whether you should accept it or leave it in this indefinite way and leave it to the court to find out who is an Arya Samajist for the purposes of this Act. Sir, I support the amendment.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Sir, I am very sorry I have to differ from

[Pandit Krishna Kant Malaviya.]

the Leader of my Party. I may tell you, Sir, beforehand that I am not an Arya Samajist, and there is no likelihood of my ever becoming an Arya Samajist, because I believe in principles in which the Arya Samaj does not believe. All the same, I do not see the necessity of accepting the amendment moved by my Honourable friend, Mr. Bajoria. I am not at all convinced why the Arya Samaj or the Arya Samajist should be defined. I feel that in this year of Grace, 1936, the faith and the religion of the man should be confined between the individual and his God. He should be free to approach his God in the way he likes most without being compelled to perform any conversion ceremony of any sort in this world. The religion of a man should not be the concern of anybody else in this world. For purposes of faith and religion, it should be sufficient for the world that the man declares himself either an Arya Samajist, a Sanatan Dharmi, a Muslim or a Christian. The mere declaration of the man that he belongs to such and such faith and that he wants to approach the Creator in his own way should be enough to satisfy the world at large. I feel that if he declares that he believes in the teachings of Swami Dayanand or in the teachings of any other social reformer or a Prophet, this would be enough for my purposes and if it is sufficient for my purposes it ought to be sufficient for the purposes of others also. So far as marriage is concerned, I think that that should be the concern of the individual man or the individual woman only. What has the world got to do with it. A man wants to marry a particular woman and that woman wants to marry that particular man, that should be sufficient for the world. Why should they be compelled to go to any people and declare that they belong to this faith or to that faith? I can even imagine a man and a woman of different faiths living as husband and wife. If a man and a woman want to live together and they feel that they can have peace and happiness in that way, it is their look-out, why should others worry about them. After all, whosoever marries will have a few friends ; he will not be living in a jungle. He will invite his friends to attend his marriage ; there will be a concourse of people to witness the marriage sacrament or ceremony and they will be able to prove in any law court, if occasion arose, that these two joined themselves in union and they declared that they were husband and wife.

Babu Baijnath Bajoria : Why not have free love then ? If they do not belong to any society, community or religion, what will happen ?

Pandit Krishna Kant Malaviya : I am not living in a jungle ; I am living in a society. I said that if a man wants to marry a woman and a woman wants to marry a man, they will have friends in this world. They will invite them ; they will feed them ; they will give them dinners and luncheons ; and every one of them will be able to prove in a court of law that these two persons decided to marry and they became husband and wife.

Sir, my Honourable friend, Mr. Umar Aly Shah, with his expert knowledge of our Shastras made us believe and threatened us that the sons of such and such marriages will be thrown into hell and that if such marriages are allowed, society will go to dogs. He also said that Manu has said this and said that. May I tell him, in all humility, bowing down to his knowledge, that Manu also ordained that the Brahmans could marry the girls of Kshatriyas, Vaisyas and Sudras ? May I tell him that Manu

also declared that a Kshatriya could marry not only the girls of Kshatriyas, but also the girls of the other two castes and so on and so forth. These laws are contained in our Shastras and in the laws of Manu, anybody can read them. Leaving aside what Manu said 5,000 or 10,000 or even a lakh of years back, we are concerned more with the present and the future which is to come. Times have changed and so have our necessities and requirements of life. Even in our later day history it is recorded that Chandragupta married the daughter of Selucus; we are told that Vikramaditya of Ujjain married a Chinese Princess. There was no upheaval of society then, there was no revolution and so far as I know their sons and grandsons ruled and they were not sent to hell, nor did the society then existing ostracise them.

An Honourable Member : How do you know they were not sent to hell ?

Pandit Krishna Kant Malaviya : Because we remember them now with respect, we are proud of them now and because we do not now think that they did any infamous act and because we praise them even today. I may point out to my Honourable friend that little knowledge is a dangerous thing, I may point out to him, Sir, that before the days of Mahabharat,—in prehistoric times the institution of marriage as such did not exist. It had a very late origin. My Honourable friend, Dr. Bhagavan Das, may well point out that even just before the Mahabharat, a disciple went to his guru and wanted to have his thread ceremony performed. The Guru said, "well, what is your *gotra* ? From which family are you born and what is the name of your father ?". The young boy did not know the name of his father and so he went home to find out from his mother the name of his father. The mother said "it is a very difficult problem for me to tell you the name of your father". The Guru also found it difficult to find out the *gotra* of that boy. So he decided that in order to establish the identity of one's father, the institution of marriage should be brought into existence. In this hoary land of ours we had polyandry, polygamy and what not and we have theological and scientific explanations for all that. However, whatever it may be, the question of marriage should be the concern of the man and the woman and not the concern of the society at large provided they do not by their actions take away the liberty of others or injure the interests of others.

An Honourable Member : What about succession ?

Pandit Krishna Kant Malaviya : That can be settled.

An Honourable Member : Why not then have free love, instead of marriage ?

Pandit Krishna Kant Malaviya : Free love would be much better than this enslaved love which we have now, and also better than no love which we have now. I therefore feel, Sir, that there is no necessity for any man to register himself a member of any Samaj, for the sake of marriage, even if he believes himself to be an Arya Samajist and even if he is a follower of Dayanand Saraswati. So far as the question of marriage is concerned, I have already said that the marriage ceremony will take place amidst some people and there will be people enough to come forward if there is any question in a court of law to prove that these two people were married. I, therefore, oppose the amendment moved by my Honourable friend, Babu Baijnath Bajoria.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : I find that both my Honourable friends, Mr. Umar Aly Shah, and Babu Baijnath Bajoria are unnecessarily raising a huge cry for nothing. The main principle of the Bill has already been accepted. The main principle of the Bill is that if marriage is celebrated, either if it has been celebrated before the coming into existence of this Act or celebrated hereafter, the rights by way of marriage or inheritance or succession ought not to be impeded. This Bill ought not to be in such a way that the religious practices of the Hindu community as a whole will be destroyed. The promoters of this Bill who form a huge community in Northern India owing spiritual allegiance to Swami Dayanand Saraswati have not permeated in the south into such huge proportions and there is no clamour from the Southern India that such marriages should be recognised. The courts are slow to move in the matter of reform. In spite of this the founder of the Arya Samaj had stated that caste is not to be decided by birth, but by *samskara* and this theory has not yet been accepted by courts. As far as I am aware, the Arya Samajists claim to be truer Hindus unlike the Hindus of the later day to which Hinduism we all belong. They say that their religion is a direct corollary of the Vedas. They do not accept some of the Smritis of later day commentators. They believe that every one is born a Sudra and by *samskaras* alone he becomes a Dwija. All people to whatever caste they may belong are sudras by birth according to the Arya Samajists. Even I, before my thread marriage ceremony, was a sudra. It is only after the *samskara*, that all of us are Brahmans :

"Janmana jayate sudra,

Samskara dvija iti uchyate."

It is not that this was introduced into the Smritis by Swami Dayanand Saraswati. It has been there through
 1 P.M. ages. It is the *Samskara* that gives real birth to a man. Before the *samskara* or before the thread ceremony takes place, everybody is a sudra. Before that, if a marriage takes place without *samskara*, I am afraid strictly speaking and strictly interpreting the ancient texts, it would not be proper kind of marriage that ought to be accepted by the courts or by the Hindu religion. Now, Sir, it is accepted that even today even after the spread of Arya Samajist creed, if a person belonging to another fold gets himself converted into Hinduism, he becomes a Hindu of the lowest class of society. I would ask my Honourable friend, the Mover of the amendment, that a person who belongs to the Christian religion or the Moslem religion, if he becomes a Hindu, is there any register maintained showing that he has got himself converted into a Hindu, and if he says he has got himself converted today if he dies tomorrow, what will be the succession to him. Would it go back to the collaterals of the Christian faith or his brothers who still persist in the Christian community or of the Muslims? Will there be a new kind of succession? As far as I am able to understand the law, there would be a different kind of succession altogether. No doubt he would be entitled to inherit to his parents. But there would be a different thing. After all, he is converted. Now, Sir, no register is maintained for conversion. I believe after all whether you take the Hindu form of marriage or another kind of marriage, even the marriage

which is performed on the basis of the *samskaras*, that is, as one of the *shorasha karmas* or the 16 *karmas* prescribed by the *shastras*, all that is done is only for the purpose of evidence. A man and woman must agree or where a woman is not able to agree on account of her age, want of sufficient maturity of understanding, and it is the father that settles the marriage on her behalf, for the rest the rites that take place are *agni shakshi* which means that *agni* is only the witness. Formerly when there were no registers, no registration offices and no Registrars of births, marriages and deaths, etc., *agni* was the *shakshi*, the persons invited were the witnesses. Today I would say to Mr. Aney that there is absolutely no difficulty. After all we are trying now to say that if marriages are celebrated between two persons who profess the Arya Samajist creed or faith even if they may belong to different castes, the marriage should be valid, as valid as if they belonged to the same caste. Under the existing law any such marriage is void. It is unfortunate that such marriages were not void or not held to be invalid a number of years ago but later commentators like Raghunandana and Kamalakara imposed certain restrictions which have been unfortunately accepted and have today become the Anglo-Indian law. But for them, the rishis of today, I am confident that had Dayananda Saraswati been left alone he would have been as good a rishi and would have added to the *smritis*, and we all of us, Hindus as well as Arya Samajists would have been following him,—he is such a venerable person. I, therefore, say that no legislation is necessary, no Arya Samaj is necessary. He may be a follower of Dayananda Saraswati, he may be a pucca Arya Samajist following a creed without being a member of a particular samaj or a particular society or a particular creed or an association as the Madras Association or the Bengali Association or the Punjabi Association. I am afraid Arya Samaj is sought to be degraded to a small association of ten or more persons. The Arya Samaj as I understand it believes that every person is born a sudra and by *samskara* or the thread marriage ceremony he becomes a *dwija*. Now there may be difficulty as to whether a woman is married or not. The difficulty arises not because of succession or inheritance. The natural laws have all their own way ; they have got married in a strict sense or live as husband and wife or come together otherwise. The general law has its own courts. But the question arises when there is the production of some beings who trace their relationship to the one or the other. When succession takes place or they have to inherit, difficulty arises. Then we have to see whether there is sufficient evidence on which any reliance can be placed to find out whether this inter-caste marriage is right or wrong, to what community or caste these people belong and to what religion they belonged. I would say, as I understand it, that there cannot be marriage among Arya Samajists unless the marriage is done before *agni* and before the *saptapati* is completed. The Arya Samajists become such by the thread marriage ceremony which is the first *samskara*. After the thread marriage ceremony he becomes a *dwija*.

Babu Baijnath Bajoria : How does he become an Arya Samajist ?

Mr. M. Ananthasayanam Ayyangar : He is a Hindu. If a man of higher caste marries a girl of lower caste and performs the marriage

[Mr. M. Ananthasayanam Ayyangar.]

according to the *dwija* rule, that is, before *agni*, and takes her seven steps round the *agni*, on a stone, places her feet and hits them up and before *agni* acknowledges her as his wife and swears that he will be her husband and she exchanges some of these, then the marriage is completed. This is to be done even with respect to Arya Samajists. I know my friend says this *samskara* is necessary. The other day our friend, Bhai Parmanand, said that the *shorasha samskaras* are necessary, the *shorasha karmas* are necessary. The *shorasha karmas* are, *jata karma*, *nama karana*, *chaula*, *annaparasana*, *upanyana*, *vivaha*, etc. It is unnecessary to trace all the sixteen. As soon as a child is born, there is *jata karma* for the child. On the day he becomes an Arya Samajist, there is *namakarna*, i.e., his name is given, *annaparasana* is the rice-giving ceremony, *chaula* is boring the ear and *upanayana* is the thread marriage ceremony. Then there is the marriage. I understand that among Arya Samajists marriage is to be celebrated only before *agni*, *saptapati* is a necessary ingredient. Are we now to legislate that *saptapati* is necessary, that the husband and wife must walk round the fire? Is all that necessary: Is it necessary to lay down that I am entitled to some person? Is it said anywhere that I must do it? The courts must recognise that these people are Hindus and according to Hindu rites the marriage is celebrated. Hindu rites are many, but I understand that so far as Arya Samaj is concerned, they have accepted this particular form and the marriage is celebrated in that particular form. We are now deciding whether the marriage is true or not; we are now trying to find out whether a man is an Arya Samajist or not. The matter comes into dispute or the matter arises for decision when a marriage takes place, and no marriage can take place unless it is celebrated before *agni* and before *saptapati* is celebrated. That is sufficient evidence and no further evidence is necessary. I say there are a number of inconveniences and difficulties if we are to accept the amendment proposed by my Honourable friend, Mr. Bajoria. An Arya Samajist must be a member of an Arya Samaj. I do not know if there are institutions everywhere. There may be only one man in a particular village; why should he register himself as an Arya Samajist? About younger boys, are they to be members or not of that Arya Samaj? Is it after all writing their name that makes them Arya Samajists or their following certain tenets and other things? My friend can only say that it is only a piece of evidence. If there are other pieces of evidence that can be devised and the marriages can be proved to have taken place, that itself is a piece of evidence. My Honourable friend would not insist on that kind of evidence. After all it is not as if it is a piece of *samskara* that my Honourable friend wants to impose and wants to put there on the *saraswatis* by the addition of another *samskara*. He will kindly see whether the amendment he has proposed meets the situation. Why should it be for one year? He may be in a particular village far remote from civilisation. There may be a register opened by two or three persons as Arya Samajists and he may enter it there. If you state it should be registered in a public office what does it matter? After all it is a piece of evidence. Without that piece of evidence, without any writing or without being a member of the Arya Samaj, if he is already there, why should you require that he should be there for one year? After all it may happen that a man and woman might like to get together, may choose this form and faith to enable them to get married. One member of a

superior caste may not be able to marry a girl of an inferior caste or *vice versa* under the existing Hindu law. Are you driving them to another religion to declare that they do not belong to the faiths to which they really belong? If my friends, Mr. Umar Ali Shah and Mr. Bajoria, have really any faith in divinity and in their religion, I would ask them not to mix up too much of religion with the practical affair of marriage. As the Honourable the Leader of the Opposition has been telling us on the floor of the House, let us not mix up religion with politics. A man and a woman can come together at present if they will only declare under the Civil Marriage Act that they are married. That is enough. Why should my friend, Mr. Bajoria, think that he alone is a believer in Vedas, that he alone is a follower of Bhāgwat Gita?

Babu Baijnath Bajoria : I never said that.

Mr. M. Ananthasayanam Ayyangar : Therefore, do not impose restrictions. Remove restrictions.

Babu Baijnath Bajoria : If there are no restrictions, there will be chaos in society.

Mr. M. Ananthasayanam Ayyangar : I don't think any one of us is entitled to say "You shall be an Arya Samajist for one year before you enter into a marriage as an Arya Samajist". What right have we to say so? After a time that man may get into touch with another form of religion and adopt it. Therefore, for the purposes of giving civil rights to a marriage, I would say that forms of marriage are not necessary; registers are not necessary. The form that is gone through by the Arya Samajists is quite enough...

Mr. M. S. Aney : Is my Honourable friend aware that 14 days notice is necessary even under the Special Marriage Act?

Some Honourable Members : The question may now be put.

An Honourable Member : No declaration of faith is necessary.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Mr. Deputy President, my object in rising to speak on this occasion is to support the amendment of my friend, Mr. Bajoria. As was pointed out the other day, I think it is extremely necessary that a definition of "Arya Samajist" should be given in this Bill. This measure is being enacted for a particular purpose, that is, for the purpose of validating certain marriages. Now, Sir, if it were a general Bill, if it had nothing to do with any particular purpose, I think there would have been some justification for the arguments advanced in favour of not giving a definition, but we find that the framers of this Bill and the gentleman who wanted to sponsor this measure themselves thought that a definition of "Arya Samajist" was necessary in this Bill. Sir, before the Bill was sent to the Select Committee, the draft of the Bill, which

[Sir Muhammad Yakub.]

was presented to this House, contained a definition of "Arya Samajist". I have got a copy of that Bill in my hand, and clause 2 of the Bill runs as follows :

"For the purposes of this Act, 'Arya Samajist' means a person who is a member of any Arya Samaj or within five years of the passing of this Act or within one year of his marriage executes a written document declaring himself to be an Arya Samajist or in terms equivalent thereto, or is a member of the family or a relative, dependent, or a person under guardianship of any person mentioned in clause (a) or (b).....".

So the framers of the Bill themselves thought that a definition of "Arya Samajist" was necessary to be inserted in this Bill. It is really surprising that in the Select Committee this definition was altogether done away with, and then the members of the Select Committee in their Report said that the Bill had not been so altered as to necessitate republication or recirculation. Sir, I think it was altogether a travesty of facts to state that. In fact, the Bill has been so mutilated in the Select Committee that it was extremely necessary to have it re-published and re-circulated. Because, if we compare the two Bills, we find they are altogether different. Unfortunately, as I said, in my previous speech, there was not a single Member belonging to any other religion in the Select Committee except those who wanted this Bill, and in future, I think, great care should be taken to see that when referring Bills of this character to Select Committees, Members belonging to different communities, different schools of thought and different religions are included, otherwise there is a great danger that a measure, which apparently looks quite an innocent thing, in the Select Committee, may be transformed in such a manner as it may become altogether mischievous.

Mr. Deputy President (Mr. Akhil Chandra Datta) : That is not the motion before the House now.

Mr. Surya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Why did you not make this suggestion when referring this Bill to the Select Committee ?

Sir Muhammad Yakub : The reason why I did not suggest it then was this. When the Bill was first introduced, in the Statement of Objects and Reasons, there were only two or three lines, and they looked so innocent that nobody could ever conceive that at a later stage poison would be introduced into its tail and the whole Bill would become such a mischievous measure. This is what is stated in the Statement of Objects and Reasons appended to the Bill when it was first introduced :

"As the Arya Samajists who form quite an appreciable number of the Indian population conscientiously believe that the present caste system is not in accordance with their scriptures, the Vedas and the sacred Sastras, and as the law administered at present in regard to marriages between parties belonging by birth to a different caste or sub-caste are considered invalid, and as there is a fear that the issues of such marriages being declared illegitimate, and as a large number of such marriages have taken place and more would have taken place had there been no such obstacle, it is necessary to have a law which would give relief to all Arya Samajists. Hence the above law is proposed."

So the object of the Bill, when it was first introduced, was only to validate certain marriages between parties belonging, by birth, to different castes or subcastes of Hindus, and it was never intended to apply to any

person belonging to other religions ; it was exclusively intended to apply to Hindus. Therefore, we thought that this was an innocent measure, it related only to different castes and sub-castes of Hindus, and that it would not interfere with any reforms that other communities may want.

Mr. Ghanshiam Singh Gupta : Will the Honourable Member read clause 3 of the Bill ?

Sir Muhammad Yakub : I have read clause 3 and clause 4 also. Clause 3 of course was somewhat ambiguous, and it would have created some suspicion, but clause 4 of the Bill, removed the suspicions and now clause 3 also has been deleted. Sir, as I said the Bill, as it has emerged from the Select Committee, is an entirely different measure to what it was when it was first introduced. Therefore, Sir, I submit that in order to remove the misapprehensions in the minds of non-Hindus in the House, it is only fair and just that, in a mixed House, when a question of such momentous importance is raised, care should be taken by the majority in selecting members of other communities also.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : What are the misapprehensions ?

Sir Muhammad Yakub : Shall I tell you ? I shall detail all these things when I come to my amendment. Strictly speaking, this is not the occasion to do so. For the present, I shall only confine myself to the point that the definition of Arya Samajist is necessary.

Now, Sir, I shall submit only a few words about the observations made by the revered venerable Dr. Bhagavan Das.....

An Honourable Member : Reverend is not a bad word. Reverend is equally good.

Sir Muhammad Yakub : Or shall I say His Holiness Dr. Bhagavan Das. I am sorry he is not in his seat now. It was really very pleasant sight that after an exhibition of a little knowledge of Sanskrit was made by a Mussalman Member of this House, Mr. Umar Aly Shah, he should have been followed by a Hindu Member of the House, who gave us a little exhibition of his knowledge of Arabic ; but I cannot help repeating the remarks of my friend, Mr. Malaviya, that a little knowledge is a shallow thing, and I may venture to say that both the Honourable Members exhibited a shallow knowledge of Sanskrit and Arabic.

An Honourable Member : What about you ?

Sir Muhammad Yakub : The definition of Mussalman which I gave, I never said that in our Kalma other Prophets were excluded. In fact, if Dr. Bhagavan Das had a little more knowledge of Arabic, he would have found from the words of the Kalma itself that it did not exclude other Prophets. In fact, the Mussalmans believe in all the Prophets from Adam down to the last Prophet Muhammad, and, therefore, the observations made by Dr. Bhagavan Das and his exhibition of Arabic knowledge were altogether irrelevant and redundant. He was also not quite correct when he said that there are sects and subsets of Mussalmans which did not believe in the second part of the Kalma. The second part of the Kalma is " Muhammad ur Rasool ul Lah ", and there is not a single sect of Mussalmans including Qadianis, Shias or Sunnies who do not believe that Mahmood is a Prophet or Apostle of God.

Pandit Krishna Kanta Malaviya : Do the Ahmediyas believe that Muhammad was the last Prophet ?

Sir Muhammad Yakub : That words " last Prophet " do not appear in the Kalma. My dear friend is again showing his ignorance. I said Muhammad is the apostle of God, and nothing more and nothing less, and the Qadianis also believe in this. So, what is the use of showing ignorance in this House.

Bhai Parma Nand : Not exactly that.

Sir Muhammad Yakub : Exactly that. I challenge my friend to show that there is a single Mussalman belonging to any sect who does not believe in it. I challenge anybody in this House or outside this House. It is no use saying that the Mussalmans cannot give a definition of their own religion. I, therefore, say that for the purposes of this Bill which wants to validate certain marriages—and in fact not only the marriages which will be solemnised after this Bill is passed, but also marriages which were solemnised fifty years ago—it is a novel sort of legislation we have got in this House—I say for the purposes of this Bill a definition of Arya Samajist is extremely necessary and ought to be given in the Bill and the amendment of Mr. Bajoria is really a compromise amendment because in the original Bill it was five years. This is a very moderate amendment, and in order that the Bill may come out in a form which would be acceptable to all sections of the House, the Honourable Members should agree to this amendment.

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural) : Sir, I rise to oppose the amendment moved by my Honourable friend, Mr. Bajoria. I was really surprised when I found two of my friends, Mr. Malaviya and Mr. Ayyangar, one from the north and the other from the south, speaking almost the language of a modern reformer. I had always associated the name of Malaviya with all that is Sanatani in the Hindu religion, in the Hindu community. Therefore, I was glad that things have moved ; and when a Malaviya has moved, we can fairly take it to be an index that a substantial portion of the Hindu community has moved. I quite remember when I was in college in 1918, when a Bill was introduced by Mr. V. J. Patel, who was then a Member of the Imperial Legislative Council, there was a great controversy ; and, as usual with Poona students, there was plenty of egg-throwing. But this House will not be surprised to know that, in the City of Poona, during the last three years, more than a hundred marriages have been notified under the provisions of the Special Marriage Act. The question before the Hindu community is this : are they going to secularise marriages or are they going to stick to the present law of Hindu marriage according to their Shastras ? I find from the objects of this Bill that hundreds of marriages have taken place among the Arya Samajists and as far as I am able to see, according to the rites prescribed by the Arya Samaj scripture ; and yet they feel the necessity that these religious rites are not enough and that is the justification for the introduction of a Bill of this character : they want to secularise these marriages and with retrospective effect.

My friend, Maulvi Yakub, or rather Sir Muhammad Yakub, need not feel surprised because it gives retrospective effect. Only the other day, a Bill was introduced by one of the Government Members to ratify

and legalise marriages which were celebrated under a misapprehension of law at Bangalore. So, as far as retrospective legislation is concerned this is not a new thing at all. In order to legalise marriages it has been found necessary that religious rites are not enough and therefore marriages must be secularised. Personally I have little faith in religious rites and therefore I would like more and more attempts made to secularise marriages amongst the Hindus and the Hindu community. I welcome this and I would welcome still more the other Bill which has been introduced by my Honourable friend, Dr. Bhagavan Das. What is the amendment of Mr. Bajoria? It wants to define an Arya Samajist. It has been found impossible to define a Hindu. As far as I am able to see—and I am sure Bhaji will not contradict me when I say this—Arya Samaj is a militant section of the Hindu community. If the generic term Hindu cannot be defined, it will be still more difficult to define what is an Arya Samajist. I remember it was in the year 1915 or 1916, the *Leader* of Allahabad invited the opinions of prominent Hindu leaders from all over India requesting them to define “a Hindu”. Nearly three hundred leaders belonging to different schools of the Hindu community responded, and the best definition that could be arrived at was “A Hindu is a Hindu who calls himself a Hindu”. That was the definition given by Rao Bahadur C. V. Vaidya, and that was the definition suggested by Dr. Bhagavan Das. I think if that definition is to be incorporated in this Bill, it is mere tautology. If I remember aright, some difficulty was experienced at the time when the term ‘Parsi’ was to be defined at the time of amending the Parsi Divorce Act; and ultimately the definition adopted was “Parsi is a Parsi Zoroastrian”. If you want a definition of that kind, there is no harm. But what is the implication of defining an Arya Samajist for the purposes of this Bill? The implication is

Babu Baijnath Bajoria : They want to differentiate themselves from the other Hindus.

Mr. N. V. Gadgil : That is exactly the point I am coming to. The orthodox Hindu wants to take them away from the community if he could. The cat is out of the bag.....

Babu Baijnath Bajoria : They want to go out of the community, but we do not want to prevent them.

Mr. N. V. Gadgil : You may cry yourself hoarse : they will remain Hindus and they will reform the society and they will liberalise the Hindu community : they will not go away ; and when I see Mr. Krishna Kanta Malaviya stating that only two things are necessary for a marriage—a man and a woman, and no Pandit, I think the days of orthodoxy are numbered. Sir, my friend, Mr. Aney, for whom I have very great respect, pointed out certain difficulties about the identity of persons, this, that and the other. Are those difficulties found while celebrating Hindu marriages?

Mr. M. S. Aney : Their validity is never questioned in a court of justice. You are here to validate what you consider to be an invalid thing : that is the main point of distinction.

Mr. N. V. Gadgil : If it is only a question of identity of persons, I think the persons can be identified with absolute accuracy. It is not the difficulty of identification or anything of the sort. The real objection

[Mr. N. V. Gadgil.]

is that these people do not want inter-caste marriages in the Hindu community. There we differ. Stating it plainly, you do not want any inter-caste marriages.

Mr. M. S. Aney : On a point of personal explanation, Sir. I have repeatedly stated that Hindus are entitled to have inter-caste marriages under the Special Marriage Act. Why do you rob women of the liberal rights which they have under that Act, by passing this Bill which is disadvantageous to them? You ought to reject this Bill and call upon the Arya Samajists to have their inter-caste marriages under the Special Marriage Act just like the rest of the Hindus?

Mr. N. V. Gadgil : In the interruption of my Honourable friend I find more heat than light. All that I could understand was that the women would be handicapped. I fail to see how. If it is a question of succession, I am sure it is almost the unanimous opinion of those who are here and who are going to sponsor this Bill, that the Hindu law of succession ought to govern and that the children of such marriages should not be governed by the Indian Succession Act. If that provision is made and clause 3 is deleted and some such clause as I have indicated is substituted, I think my Honourable friend, Mr. Aney, should not have any objection. But if he has no objection to inter-caste marriages, I think this is the first step that we can take and the next step would be the Bill that has been introduced by Dr. Bhagavan Das. By defining an Arya Samajist, the result will be that they will be taken out of the Hindu fold, but we want that they ought to be put on the same footing and in the same atmosphere as the generality of the Hindu community. For these reasons, I oppose the amendment.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : I intervene in this discussion with a considerable amount of hesitation. I believe from what I have heard during the last two days that the implications underlying my Honourable friend, Mr. Bajoria's amendment are much wider than most of us have been led to believe. I do not believe in mincing matters. I wish that Members of this House who take such a deep interest in this Bill were perfectly clear and concise in the expression of their opinions. My Honourable friend who has just sat down, I believe, came nearest to the point. There are some in this House who fear that men and women of different castes in the Hindu community who cannot today contract a valid marriage will take advantage of this Bill by becoming Arya Samajists simply for the purpose of contracting a valid marriage. They will not be *bona fide* Arya Samajists, they will not conscientiously be converted to the Arya Samajist faith. They will become Arya Samajists merely for the purpose of contracting a valid marriage. My Honourable friends desire that such men and women of different castes in the Hindu community should not be enabled to contract a valid marriage merely through the instrumentality of this Bill. So far as I can make out, my revered friend, Mr. Aney, who does not wear a beard and Mr. Bajoria do not object to *bona fide* Arya Samajists contracting valid marriages. But they believe there are grounds for apprehension that men and women of different castes in the Hindu community who cannot today contract valid marriages will be enabled to do so by shamming to be Arya Samajists. That, in short, I believe is the case of my Honourable friend, Mr. Bajoria.

He tries to appease his apprehensions by bringing in a definition of an Arya Samajist. I regret I cannot see, even if it were possible to define an Arya Samajist, how it is going to prevent Hindu men and women of different castes pretending to be Arya Samajists and going through the ritual, if necessary, in order to contract a valid marriage. Those Hindu men and women of different castes who desire to marry will find ways and means of doing so even if this Bill does not become an Act, and I am afraid, speaking with perfect impartiality, not being a Hindu, you will not be able to prevent it. Even if a definition is possible, it is certainly not the method of attaining the object which my Honourable friend, Mr. Bajoria, has in view. Therefore, he must find other ways and means. I agree on principle that no man and woman should be forced to take to a religion which they do not wish to do, or a religion in which they do not believe conscientiously, merely because that enables them to contract a valid marriage. I think that is a very wrong position to take up for any man and woman or to force any man and woman to take up. I would be the last.....

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : You forget love marriages.

Sir Cowasji Jehangir : I leave that to you. (Laughter.) Sir, I will be the last man to see a Bill brought on to the Statute-book which would enable people to sham and humbug in order to be able to contract a valid marriage. I know that they are anticipating Dr. Bhagavan Das's Bill and a great deal of this discussion is in anticipation of that Bill. I do not desire to take part in any discussion with regard to that Bill ; it is for the Hindus themselves to discuss that matter and decide it amongst themselves. But when it comes to an enactment whereby any man and woman of any community can contract a valid marriage which they cannot do today, by simply becoming Arya Samajists, it is time to see that the Bill is so framed that such people shall not take advantage of it. I am not a lawyer, I leave it to my Honourable friend, the Leader of the House, an eminent lawyer, but I think he should see that people will not take advantage of this Bill to contract valid marriages, simply by becoming Arya Samajists in name. That is all I have got to say, Mr. Deputy President. I again repeat that Mr. Bajoria's object will not be served by defining the word Arya Samajist even if it is possible in law.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : Are you frightened of the Parsi community ?

Sir Cowasji Jehangir : I am not frightened for the Parsi community at all. I am talking on this question from a very much wider point of view than the communal point of view.

Dr. G. V. Deshmukh : I am glad to know that.

Sir Cowasji Jehangir : I am talking from the moral point of view, and I am sure my Honourable friend, Dr. Deshmukh, does not want a Bill to go on to the Statute-book which will enable people of different communities.....

Dr. G. V. Deshmukh : Will you speak for yourself and not be sure of what I am going to say or do ?

Sir Cowasji Jehangir : My Honourable friend, Dr. Deshmukh, is so uncertain of his principles that I cannot even attribute to him a principle which every moral man ought to support.

Dr. Bhagavan Das : On a point of information, Sir. May I ask my Honourable friend, Sir Cowasji Jehangir, if there are any Acts on the Statute-book which ensure that every conversion shall take place after the candidate for conversion has made a deep study of the scriptures of his previous religion and the scriptures of the new religion to which he wants to become a convert. What safeguards does the Statute-book supply against "sham" conversions to other religions than that of the Arya Samaj ?

Sir Cowasji Jehangir : May I say we are not discussing conversion just now ? We are talking of marriage and we are talking of sham conversions to enable one to contract a valid marriage. There is no question of conversion. It is a question of having a conversion with a deliberate object, a materialistic object. Conversion is a question of one's conscience and one's religion. Here is practically a marriage with what I would call a materialistic object, for want of a better term to explain my meaning. They are taking advantage of conversion in order to contract a valid marriage. That I think ought to be obviated if possible. I know that it is possible under other conditions which prevail today. But let us not add to them if possible, and let us appease the apprehensions of those who feel and have expressed those feelings. As I have explained, I would be the last to prevent any legislation going on to the Statute-book which would enable genuine and *bonâ fide* Arya Samajists from contracting valid marriages. That is the object of the Bill and that is the object which I would support wholeheartedly. (*An Honourable Member :* What is a *bonâ fide* Arya Samajist ?) A man or woman who becomes an Arya Samajist from conscientious motives. He or she does not become an *Arya Samajist* simply because he or she wants to marry a woman or a man. That is what I mean by *bonâ fide* Arya Samajist. (Interruptions.) It seems to me that this matter is getting very controversial and I do not want any more heat to be imported into the discussion. Let us discuss it coolly and quietly. I do not see the reason for this heat. I do not see why the communal issue should be raised so prominently in this way. This is a *bonâ fide* measure for the advantage of the Arya Samajists. Let it be that. Let it be a measure which will enable *bonâ fide* Arya Samajists to contract valid marriages. Let us not mix up this simple question with all sorts of other questions. If we do, we shall not get very far. At the same time, it is up to my friend, Mr. Gupta, to appease the apprehensions of those who feel—and I understand there is a wide apprehension in the country—that different castes in the Hindu Community will take advantage of this Bill to contract valid marriages, which they cannot do today. Let us leave aside Dr. Bhagavan Das's Bill. We shall deal with it on its merits when it comes up. It is not before us today. Why should we anticipate it. Why should anybody allow it to be anticipated ? That is my point. Therefore, I would appeal to this House to discuss this matter coolly and appease the apprehensions of those people who feel that this measure may be taken advantage of by those who are not genuine Arya Samajists.

The Honourable Sir Nripendra Sircar (Law Member) : The last speaker warned us not to get heated. I can get heated over managing agents but not over this Bill. My complete ignorance of Arabic and my knowledge of Sanskrit being not too profound secures for me a safe position. My Honourable friend, Sir Cowasji Jehangir, talked a lot about *bona fide* Arya Samajists. If we follow the principle up, many a marriage between Christians would become invalid because the parties are not *bona fide* Christians. But that is not probably what he meant. What he meant was that this Act will be taken advantage of for the purposes of what he says a secular gain, such as marriage, or it may be secular loss. Be that as it may, has my Honourable friend realised that today under the law that can be done? Does he know that at least four times cases have come up to the Calcutta High Court where a Hindu woman has abjured her faith, become a Muslim for the purposes of marriage and courts have held they cannot go into the question of motive, saying that if at the time of marriage they were Muslims, it was a good Muslim marriage. Therefore, Sir, you do not prevent it. You may drive them to become Moslems, you may drive them to become Christians but they will have their valid marriages if they are not tied to the fold of the Sanatanist Hindus. That cannot be prevented. Sir, in the Calcutta High Court, a matter has come up which may be surprising to the lay mind. The case is *sub judice* in the sense that an appeal has been filed but the facts are shortly these. A Hindu woman wanted to get rid of her husband. This is a case from Jessore which was reported at great length in the papers. She followed what has now become a fairly popular device. She wrote to her husband through a pleader "I have become a Muhammadan, and, therefore, either you become a Muhammadan and come and live with me, or the marriage will come to an end". The result was that the husband refused to become a Muslim and she succeeded in getting the marriage dissolved. Now, we come to the next step. Having got rid of the Hindu husband by means of this alleged conversion, which was simply for the purposes of this marriage, she gets reconverted to Hinduism and that having been done she marries again a Hindu, so that the *plus* and the *minus* equalise each other. Sir, what the High Court will do I do not know but the learned Subordinate Judge in a judgment which occupied eleven columns of the *Amrita Bazar Patrika* has come to the conclusion that that was a perfectly valid marriage. The point I am making is this, that if at the time of marriage the two persons profess either the Moslem or the Christian or the Hindu or the Arya Samajist religion, that ought to be enough. I think my friend knows of cases where Hindus have been converted to the Muhammadan faith a couple of hours before the marriage. Are those marriages valid? Yes. Why are they valid? because at the time of the marriage they were both Muslims. You cannot go into the question of *bona fides* and *mala fides*. Whatever you do, you cannot stop what you think to be a danger. Then, Sir, one word more about what my friend, Sir Muhammad Yakub, said. If there was the slightest ground for his very unjust suspicions that this Bill will affect the Muslim community, I would not have supported it at all.

Sir Muhammad Yakub : Then why not accept my amendment?

The Honourable Sir Nripendra Sircar : Yes, I will deal with it at the proper time. My friend seems to be in a hurry, but nobody else seems to be in a hurry. Why should I be? The object of his amendment

[Sir Nripendra Sircar.]

is this. Supposing originally the man was a Moslem and the girl was a Hindu and they had become genuine Arya Samajists and they had been Arya Samajists for ten years, then the marriage will become invalid. Surely I am not going to accept that amendment, whatever may happen to this Bill. My friend made another remark : Why don't you define a Muslim. He said " Oh, we have never come to court for getting our rights ascertained in this way ". Sir, are not there a series of Acts which applied only to Muslims ? May I start from 1876, the Act which authorises the appointments of Registrar for Moslem marriages. Is ' Muslim ' defined there ? But for want of that definition, has the slightest difficulty arisen within the last sixty years ? Will my Honourable friend think of the Waqf Act and the Waqf Validating Act ?

Sir Muhammad Yakub : It was so clear that it was not needed ; everybody knows what is the definition of a Muslim.

The Honourable Sir Nripendra Sircar : " Everybody knows what is a Muslim " ! That is the reason, Sir, why the columns of the Punjab papers for years have been flooded by one party trying to prove that the other party was not Muhammadan ! (Laughter.) Sir, this matter has been so fully discussed in the previous amendment, which is only different in that it suggests three years rather than one, that I won't take up the time of the House further. Sir, I oppose this amendment.

Mr. Ghansham Singh Gupta : Sir, as an Arya Samajist I come here not in the spirit in which my friend, Mr. Gadgil, has spoken, in a militant mood ; I am an applicant, rather a supplicant to this House and I want to put my case as fairly and as equitably as I can. The apprehensions that have been pointed out by my friend, Sir Cowasji Jehangir, have been thoroughly answered by the Leader of the House. I can only say one word, and that is that I mean this measure to be for undoubtedly genuine Arya Samajists and not for bogus ones. This I can state once for all, but nobody can guarantee that persons with baser motives will not or cannot take advantage of a thing which is intended for the good of a community. I shall not cite instances. It is said that persons take to Anand marriages for the purpose of evading the law. Now, if that is a fact, how can you frame a Bill for the Arya Samajists in which dishonesty will altogether be barred ? But I can say this. There will be very very few cases of persons who will take shelter under this Bill for the purpose of satisfying their bad motives, because there is the Civil Marriage Act. If persons want to be married, and if they really do not believe in the tenets of the Arya Samaj, there is no need for them to take shelter of this Bill ; there are existing today so many other Acts which give them facilities. (*An Honourable Member :* " Then, what is the trouble ? ") So, Sir, I can assure my Honourable friend, Sir Cowasji Jehangir, that if there is any Act which is the least likely to be misused, it is this Bill. Coming to my Honourable friend, Sir Muhammad Yakub, he, Sir, is a very ingenious Advocate. He will not read the Bill as it was introduced but only the Statement of the Objects and Reasons and then he charged the Select Committee with bad faith. He said that the Bill, which ostensibly was a very innocent one, which even the intelligent brain of Sir Muhammad Yakub at that time thought to be a very innocent one, has emerged from the womb of the Select Committee as a pernicious measure. Sir, I deny

this charge. Now, I requested my friend, Sir Muhammad Yakub, to read clause 3 of the Bill as introduced and as originally drafted. He did not do it. I shall read it; clause 3 as originally introduced reads as follows :

“ No marriage between Arya Samajists shall be invalid or shall be deemed ever to have been invalid by reason of the parties having belonged to different castes or sub-castes of Hindus or to different religions, any law or usage or custom to the contrary notwithstanding.”

The words “ to different religions ” were in the original Bill as it was drafted and as it was introduced. My friend misread the Statement of Objects and Reasons, he imported something into it which I never meant. I drafted the Statement of Objects and Reasons; it is my draft and the meaning is not as he wished to import into it. It says “different castes or sub-castes.....” Now he read it as, “ different castes or sub-castes of Hindus.....”. The very first sentence says that the Arya Samajists do not believe in the caste system by birth. Either he may be a Kshatriya or he may be a Brahmin or he may be a Christian or he may be a Muslim. Now the Bill itself has made it perfectly clear by the words “ or having belonged to different religions ”. Therefore, the charge brought by my Honourable friend, Sir Muhammad Yakub, against the Select Committee, on which my respected Leader Bapu Aney was also sitting, has no foundation.

Mr. M. S. Aney : I never brought a charge of bad faith.

Mr. Ghanshiam Singh Gupta : I did not mean you but the gentleman in close company with you, because at any rate you cannot be charged with having any bad faith; and any Committee on which were such good friends of Sir Muhammad Yakub as Bapuji Aney it should not be charged with bad faith. So the only ground on which my friend, Sir Muhammad Yakub, charged the Select Committee with bad faith was that the word “ religion ” has been imported into it. Now, Sir, coming to the amendment of my friend, Mr. Bajoria, it is a simple thing. Now what does he want and what does my friend want? They say that an Arya Samajist should be defined.

Babu Baijnath Bajoria : Did you not want that?

Mr. Ghanshiam Singh Gupta : I did want it and I should be very glad if it can be defined in a proper way.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Then your case is a hopeless one—it is nameless and shameless.

Mr. Ghanshiam Singh Gupta : Sir, I have not been brought up to retort in the way in which my friend uses the word. I am an Arya Samajist and I must keep the dignity of this House and I refuse to answer my friend in those terms. (Hear, hear.) Sir, I heard the speech of my respected friend, Bapuji Aney, with great respect; I have a very great regard for him and I heard it with rapt attention. His whole argument was this. If you cannot define it today, it is almost impossible for a court of justice to find him out.

Mr. K. Ahmed : No, the Judges of the different High Courts say that it must be defined, and as it is impossible or impracticable to give this definition, therefore, they do not support it.

Mr. Ghanshiam Singh Gupta : Sir, if my friend talked something which was worth replying to, I would have replied. My friend, Bapuji Aney, says that if it is difficult to define an Arya Samajist in this House, it is very much more difficult to find him out in a court of law. Now, Sir, I myself humbly differ from him. The whole question is this—whether it is more difficult to find out an Arya Samajist or more difficult to define him. Is it more difficult to find a Hindu or more difficult to define a Hindu ? As a student, I read an essay—I forget it, my memory is short—in which the problem was to define a man. How will you define a man ? And in that essay at the close of it it was found that it was practically impossible to define a man, but I think not even a child will make a mistake in finding him out. So, Sir, the whole point is this,—whether it is more easy to find out a Hindu or a Mussalman or an Arya Samajist, or it is more difficult to define them. I must confess that I tried to define him. This fact can be easily seen by the number of amendments that I have given notice of trying to define an Arya Samajist. I must admit that in every case I failed to define him correctly and precisely. But if my friend, Mr. Aney, asks me to find out an Arya Samaji, I will immediately do it. So, if it is easier to find out an Arya Samaji or a Hindu than to define him, then it is a case for a Judge and not a case for the Legislature. Therefore, the Judges who will decide particular cases will be able to come to right conclusions and find out who is and who is not an Arya Samajist while we are here labouring under very great difficulty in defining him. There is one point to which my friend, Sir Muhammad Yakub, referred. He said this Bill legalises past marriages also and this, he said, was absurd. I do not know why he called it absurd. He further said that such a legislation should never be passed. But if my friend, who is not in his seat, saw the marriage laws enacted by the Legislatures, he will find not only one but several pieces of legislation in which relief has been given to past marriages. I will refer only to Anand Marriage Act and to Malabar Marriage Act in which not only future marriages have been legalised but the past marriages have also been legalised. Therefore, the Arya Marriage Bill is not a solitary instance in which past marriages are sought to be legalised.

Babu Baijnath Bajoria : What case have you made out for giving this retrospective effect to this Bill ? I have not heard a word about it.

Mr. Ghanshiam Singh Gupta : I had thought that I should speak on that subject when I came to the proper amendment of my friend, Mr. Bajoria, but since he has put a question I will answer it. I have in my possession a letter from the All-India Aryan League which says that over 500 such marriages have taken place up to the year 1935 and we have to give relief to all these marriages. Now, Sir, it is not only in the field of marriage legislation that we give relief retrospectively but also in other fields, and the Leader of the House has referred to the Mussalman Wakf Act. And what does it do ? It has not only legalised the Wakfs that were made after the passing of that Act, but also those that were made previous to it. So, my Honourable friend, Sir Muhammad Yakub, should not be surprised to see that this Arya Marriage Bill seeks to legalise the past marriages. (Interruption by Mr. K. Ahmed.)

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order : The Honourable Member is not giving way. The dignity of the House requires that even Mr. Kabeer-ud-Din Ahmed should exercise some restraint.

Mr. Ghanshiam Singh Gupta : Now, Sir, even if it were possible to define what an Arya Samajist is, is the definition that is given to us by Mr. Bajoria a proper one? Mr. Bajoria says that an Arya Samajist is one whose name is borne on the register of an Arya Samaj for one year. Now, Sir, if we adopt this definition, shall we not drive away several thousand Arya Samajists who are really *bonâ fide* Arya Samajists? If that is the result of Mr. Bajoria's definition, then it must be rejected.

Babu Baijnath Bajoria : How will you drive them away, I cannot understand.

Mr. Ghanshiam Singh Gupta : I will read out Mr. Bajoria's amendment. It says :

"For the purpose of this Act, 'Arya Samajist' means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage."

Now, let us look at this amendment properly. If it does not mean to say that his name should be borne on the register of the Arya Samaj, then it is meaningless. Perhaps I can satisfy Mr. Aney but I am afraid I may not be able to satisfy Mr. Bajoria. Either we have to rely on some register or we have to rely on oral testimony. Now, if my Honourable friend, Mr. Aney, says that there need not be any register, then you have to rely on oral testimony that the man was an Arya Samajist for one year before his marriage, and when will that question arise? It will arise not immediately after the marriage but it may arise 10, 20 or 30 years after the marriage. Now, the question will be (i) according to the proposed amendment, whether he was an Arya Samajist for one year before the marriage or (ii) according to the Bill as it is, whether he was an Arya Samajist at the time of the marriage? Both these questions have got to be decided on oral evidence. Now, the only point to be decided after 30 years will be whether he was a member of an Arya Samaj for one year or whether he was an Arya Samajist at that time. Where is the difference in the available testimony between the two? There is no difference. Therefore, if you take away the question of register, Mr. Bajoria's amendment is futile and useless.

Now, I come to another point. What about the children of an Arya Samajist? They are never borne on any register and they are never members of any regular Arya Samaj. Here in this House we have my respected friend, Bhai Parma Nand. He is as good an Arya Samajist and a much better Arya Samajist than I am. I am a member of a particular Arya Samaj. Bhaiji is not a member of any particular Arya Samaj. If the amendment of my Honourable friend, Babu Baijnath Bajoria, is adopted, then of my Honourable friend, Bhai Parma Nand, will cease to be an Arya Samajist for the purpose of this Act or he will be compelled to have himself affiliated in any particular Arya Samaj.

Mr. M. S. Aney : Suppose a question arises in a court of law, how will you prove that you are an Arya Samajist. Let me know that. Is it by oral evidence or by written evidence, or by both?

Mr. Ghanshiam Singh Gupta : I will prove, Sir, exactly in the way in which my Honourable friend, Babu Baijnath Bajoria's proposed Arya Samajist will prove that he was an Arya Samajist for one year. Therefore, Sir, I oppose the amendment.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, the only point before us is whether the expression 'Arya Samajist' should or should not be defined in the Bill. In the original Bill laid before the House, I see that the expression 'Arya Samajist' was defined there. In the Bill which has emerged from the Select committee, I notice that this definition has been expunged. I have got two explanations just now laid before the House, the one is by the Honourable the Law Member who says that the word is so familiar to everybody that it needs no definition. The other view has been given by the Honourable Member who just now sat down and he clearly said that this word was incapable of being defined. We are confused between the two explanations, namely that the word is too familiar to everybody to be defined and therefore it is unnecessary to define it, and that the word is incapable of being defined. We have now got two distinctly contrary statements before us. Therefore it is the legitimate right of the Members of this House to know very definitely why was this definition expunged from the Bill, in the light of the two contradictory statements on the floor of the House. If you agree to the theory that it is unnecessary to define the word because it is familiar, then I am sure that most of the definitions given in other enactments that have been placed on the Statute-book will also be unnecessary. I ask the Honourable the Law Member, why did he take special trouble to define the word 'managing agent' in the Companies Act (Amendment) Bill. We all know what that expression means.

The Honourable Sir Nripendra Sircar : I can give the Honourable Member an explanation.

Dr. Ziauddin Ahmad : I am not giving way. The Honourable Member can give the explanation when his turn comes.

The Honourable Sir Nripendra Sircar : Then don't ask me questions.

Dr. Ziauddin Ahmad : He can answer them when he speaks on this motion.

The Honourable Sir Nripendra Sircar : I have already spoken and I have no more opportunity to explain.

Dr. Ziauddin Ahmad : May I remind the Honourable the Law Member that while he took great trouble to define the expression 'managing agent' in the Companies Act, though every one knew what that expression means, he does not want to define the word "Arya Samajist". Why was it necessary to define "managing agent" in the company law. You will find in various enactments of this land several words whose meanings are obviously understood by the people at large are still defined in the Acts. My Honourable friend, Mr. Ghansham Singh Gupta, who is a staunch Arya Samajist said that this word cannot be defined. Now, I come to the opinions which have been circulated to this House. I find there is not a single opinion here which says that it is not necessary to define the word 'Arya Samajist'. They have drawn attention to the defects in the definition as framed in the original Bill, none of them have said that the word is so evident that it is not necessary to define it in this

enactment. I find from the list of opinions, on page 12, the opinion given by Bharat Dharam Mahamandal is :

“ The Bill does not explain who is an Arya Samajist. But its definition under clause 2 of the Bill has been made so wide as to include persons of all other communities.”

• On page 20, there is the opinion of a District Officer who says :

“ It appears to me that clause 2 as drafted is extremely wide in its scope. It was admitted during the course of the debate that Arya Samajists are part of the Hindu community.”

Then, he says :

“ it would be sufficient if section 2 is restricted only to such persons who are members of an Arya Samaj and in the case of minors to those who are the sons and daughters of such members.”

Then, again, we have got a Resolution of the Bar Association on page 21 :

“ The term ‘ Arya Samaj ’ should include only such persons who are members of an Arya Samaj and no other persons as includes in sub-clauses (b) and (c) of clause 2.”

Then, on page 23, an Arya Samaj says that “ he is of opinion that the definition of Arya Samaj as given in clause 2 of the Bill is too general and vague ”. Now, Sir, none of the opinions so far received say that the expression ‘ Arya Samajist ’ is so clear that it need not be defined. All the opinions only say that the definition as given in clause 2 is too general and vague, that sub-clause (a) does not make it quite clear as to what formalities are to be complied with before a person can be called a member of the Arya Samaj. The Arya Samaj is not entirely a separate body from the Hindu community. On page 26 of the list of opinions, it is said that “ the definition of ‘ Arya Samajist ’ in clauses (b) and (c) appear to be absurd ”. On page 40, it is said : “ the definition of an Arya Samajist is a highly artificial one and if it is allowed to stand, it would be a fruitful source of litigation and communal bitterness ”. These are the opinions which have been expressed about the definition of the word “ Arya Samajist ”. I am sorry to note that not a single person who submitted his written opinion has said that the word is so clear that it is not necessary to define it. Everybody said that the definition as given in the Bill is vague and it ought to be made clear. That is the evidence we have got, but this is the first time we hear from the Honourable the Law Member that the word ‘ Arya Samajist ’ is such a simple word that it is quite unnecessary to define it. Before we agree to this kind of argument, we must say that most of the definitions given in a large number of enactments will become unnecessary because those words are exceedingly clear to every person. These things may be clear in the mouth of a layman, but when we take the case to the law courts and when the thing is really discussed there minutely with which my lawyer friends are familiar, then I say it is desirable that we should define this word “ Arya Samajist ” before we actually make this particular Bill into law. After all, when we produce any enactment we ought to make it as clear as possible. We ought not to produce a Bill which may be open to different interpretations in a large number of cases. And when we are now introducing a Bill here about Arya Samajists I think we ought to take every precaution to define what an Arya Samajist is.

[Dr. Ziauddin Ahmad.]

Evidently there are people who do not understand it and if there is even one man who does not understand it, I think it is the duty of the Legislature to define that particular word. I do not agree to the easy going method of the Select committee, who made no effort to define the word and only expunged the vague definition given in the original Bill. I, therefore, strongly support the proposition that this phrase "Arya Samajist" should be defined. Now what definition should be put in? Here the difficulty really comes in. Some people say that it cannot be defined and all the evidence that I have got is that it is very difficult to define it. And I think the definition which has got the least resistance, although it involves the fallacy of *petitio principii*, is the definition which has come from my Honourable friend, Mr. Bajoria. He has attempted to define it, but really speaking he has not defined it because he used the same words in the definition which he wants to define. In that view I think it ought to satisfy both parties. The parties who say that it cannot be defined ought to be satisfied because it is defined in the very words "Arya Samajist", and those who say that it should be defined ought to be satisfied with the definition given. Sir, I support the amendment of Mr. Bajoria.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

- '2. For the purpose of this Act, 'Arya Samajist' means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage'."

The motion was negatived.

Babu Baijnath Bajoria : Sir, I move :

"That for clause 2 of the Bill, the following be substituted :

- '2. Notwithstanding any law, usage or custom to the contrary, no marriage contracted after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that both the parties at any time belonged to a religion other than Hinduism'."

I am moving this amendment only with a view to minimising the inconveniences of Hindus other than Arya Samajists. As I said in my speech the other day, I am totally opposed to this Bill, on account of the apprehensions which Sir Cowasji Jehangir has explained to the House. I have got true apprehensions and sincere apprehensions, that this Bill aims at validating marriages not only between Arya Samajists but also between other Hindus who are not true Arya Samajists.

An Honourable Member : What is the harm?

Babu Baijnath Bajoria : That is a matter of opinion. There the cat is out of the bag. The whole thing is this. The other side and those of the reformist school of Hindu thought want that by having this Bill passed they will serve their purpose which would have been served if Dr. Bhagavan Das's Bill which is a much wider Bill had been passed in this House. Sir, I will first of all read what is the difference between

the present clause 2 as amended by the Select Committee and my amendment. First, I do not want that there should be retrospective effect to this Bill. The second thing which I do not want is that one of the parties may be a Hindu Arya Samajist and another may be a converted Arya Samajist. These are the only two changes which I am seeking in this amendment, and nothing more. Sir, Mr. Gupta and the Arya Samajists want this Bill notwithstanding any law, usage or custom to the contrary. They care a twopence for any law or usage or custom. Let the law go to hell, let custom go to hell, let usage go to hell. That is what they want. Very well, let them have it. I know what respect my friends on the other side have got for the law of this land ; I also know what respect most of them, barring a few exceptions, have for custom and usage. I may explain to the House, as I explained the other day, that even at the present moment the usage and custom among Arya Samajists also is that 90 or 95 per cent. among them marry within the caste. Theoretically they may not believe in the caste system but in practice they do. Only in stray cases does it happen that somebody amongst them takes a fancy to a girl of another caste or of another religion and they dare to marry outside the caste or outside the religion. I want to stop that but I see that I cannot stop it among Arya Samajists, and therefore I want to stop it among Hindus other than Arya Samajists. The Hindu society has been built on the caste system and I do not think anybody will dare to deny it. The caste system has been in existence for over three thousand years, if not more, and it is only on account of the caste system that Hindu society has survived where other ancient civilisations like the Greek, Roman and Egyptian have all faded away.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Is it worth while surviving as slaves ?

Babu Baijnath Bajoria : This Bill will not make you free, this will not give you swaraj. Sir, as I said, the caste system is the pillar on which the structure of the Hindu society exists. Take away the caste system and Hindu society falls to pieces. There may be Hindus in name only but not in the true spirit of Hinduism, not as followers of Hindu religion as ordained by our Shastras, by our Vedas, by our Smritis and Shrutis. The first point is that I do not want this retrospective effect. No case has been made out for giving this Bill retrospective effect. One or two instances have been given by my friend, Mr. Gupta, about Anand Marriage Act.....

Mr. Ghansham Singh Gupta : I have said 500 marriages.

Babu Baijnath Bajoria : I meant Acts like the Anand Marriage Act and so on. But that Act applies to Sikhs. The Sikhs do not call themselves Hindus : they are not within the fold of Hinduism—they are outside the fold of Hinduism. But here the Arya Samajists want to remain within the fold of Hinduism and yet they want a separate Act for themselves.....

Seth Govind Das (Central Provinces Hindi Divisions : Non-Muhammadan) : Turn them out also out of Hinduism.

Babu Baijnath Bajoria : They want to go, but I want to keep them within Hindu fold. If this Bill is passed into law as it is

[Babu Baijnath Bajoria.]

going to be, you can take it they will be socially severed from the Hindu religion and the Hindu society : all marriages between Hindus and Arya Samajists which are freely being contracted and performed at the present moment will have to be stopped altogether. It will be more suffering to them—90 or 95 per cent. of them ; and it will be beneficial only to 5 or 10 per cent. of them. I was referring to the caste system when I was disturbed by my Honourable friends opposite. We Hindus believe in caste system. We believe that no marriage can be performed between two different castes of Hindus. If a marriage is performed between two castes then the off-spring is a half-caste or *varna sankar*. I want to say something about this *varna sankar*. *Varna Sankar* is a hated thing among us. The off-spring is considered to be much worse than shudras or untouchables. I think my Honourable friends have got some faith in the teachings of Lord Sri Krishna in the Bhagavad Gita. Sir, I will recite one or two slokas from that Book. This is what it says about *Varna Sankar*.....

Sankaro narakayaiv kulaghnanam kulasyacha

Patanti pitaro hyesham lupta pindodaka kriyaha.

Pandit Nilakantha Das (Orissa Division : Non-Muhammadian) : They are not what the Bhagavan Sri Krishna says : they are the words of the puzzled Arjuna, and this Sri Krishna contradicts later on.

Babu Baijnath Bajoria : And, again, Arjun says :

Doshavretai kulaghnanam varnasankar karkaihi,

Utsadyante jati dharma kuldharmashcha shaswata.

Utsanna kul dharmanam manushyanam janardana,

Narake niyatam jato bhavatityanu sushruma.

Pandit Nilakantha Das : Arjun says that in *Moha*, in which he has lost judgment, and Krishna tells him, that it is Anarya justam, that is, non-Aryan practice.

Babu Baijnath Bajoria : I shall translate these slokas briefly. "*Varna Sankar* destroys the whole family and the whole family goes to hell : even the ancestors (the *pitras*) fall as they do not get *pinda* and water from the hands of a *varna sankar*. Then they say that this *varna sankar* is the cause of destruction of families, destruction of race and destruction of family rules and customs : *varna sankar* also kills religion and it takes man into eternal hell." I as a Hindu will never be a party to any Bill or law which has the object of producing *varna sankar* amongst the Hindus. I will now say something about the retrospective effect....

Seth Govind Das : May I ask one question ? I want to know out of how many castes girls were married to Arjun and out of how many castes girls were married to Krishna himself ?

Babu Baijnath Bajoria : If the Honourable Member will come to my house I will be too pleased to discuss these questions.

If retrospective effect is given, for which no case has been made out and no urgency has been proved, then I say that a few *bona fide* Arya Samajist marriages will be valid and a good many others.

probably much more than the number of *bona fide* marriages will become valid marriages....

Dr. N. B. Khare : May I ask whether there are not at present any marriages celebrated between Marwari Sanatanists and Marwari Jains ?

Babu Baijnath Bajoria : If both the Marwaris are Aggarwals, or Oswals, or Maheshwaris of the same caste then they are legal marriages, just as there are marriages even between Marwari Sanatanists and Marwari Arya Samajists ; but you are going to stop those marriages. (*An Honourable Member :* "No.") Yes, you are. Let us come to the point : what will be the effect of this retrospective effect. Supposing a person has got issues from a legally married wife, and they are enjoying the property for a long time : suppose also he had a kept woman or mistress by whom also he has issues : till now these latter were considered to be illegitimate and had no voice or share in the property. After the passing of this Act, if the woman or offspring produce some evidence—and I think my friend, Mr. Gupta, will be too obliging to them and give them some evidence, they will become legalised....

Mr. Ghansham Singh Gupta : I am not a universal witness !

Babu Baijnath Bajoria : We know what Arya Samajism is : as Mr. Gadgil has already said, they are a militant sect of the Hindus and he is perfectly right. Arya Samajists are the most aggressive....

Mr. Sri Prakasa : Does my Honourable friend say that the Sanatan Dharma allows keeping of woman like that and then throwing his children by her to the wolves ?

Babu Baijnath Bajoria : Sanatana Dharma does not encourage keeping of women in that manner nor marrying all women in that manner....

Mr. N. V. Gadgil : It does not allow you to speak in a *yavana* Bhasha, viz., English : it says :

"*Na Pateth yavancem Bhasham Pranair Kanta Gathairapi.*"

"you should not learn a Yavani (foreign) language even though you are on the point of death."

Babu Baijnath Bajoria : What will be the effect now ? Those sons who have all along been illegitimate will now claim a share of the property and become legitimate sons. I understand that amongst the Sudras marriages outside the caste though not considered to be very desirable are still legitimate under the present law. I speak subject to correction from the Law Member if I am incorrect, and they are entitled to the property as much as a son from a married wife. We do not know when this Act is passed what the position will be of these offsprings, what law will be applied to them. As I understand, the Succession Act is not liked by my friend, Mr. Gupta, and probably it may go. What law is going to apply ? Whether the Sudra law is going to be applied or the Dwija law is going to be applied because there are different laws for Dwijas, i.e., Brahmins, Kshatriyas, and Vaishyas, and the Sudras ? I think great mischief will be done if retrospective effect is given. No time limit has been fixed, from what

[Babu Baijnath Bajoria.]

date ? 20 years, or 10 years, or 15 years ? I think this Bill seeks to validate all marriages that have taken place since Arya Samajism came into existence.

Bhai Parma Nand : I want to know from the Honourable Member whether there are two parties among the Marwaris in Calcutta on this very question of sub-caste marriages, and if there are, whether the other party who are in favour of these sub-caste marriages are Arya Samajists or Hindus ?

Babu Baijnath Bajoria : That is a question which you can ask the other party.

Bhai Parma Nand : I ask your opinion about it.

Babu Baijnath Bajoria : No time limit has been fixed. I think all marriages that have taken place ever since the Arya Samaj came into existence are going to be legalised by this Bill. Is it fair ? In my opinion it is most unfair, most inequitable, and most unjust. Sir, no form of marriage has been prescribed. It only says, any marriage contracted whether before or after the commencement of this Act. The marriage may have been performed according to any rites. My Honourable friend, Mr. Ayyangar, has given us a description of an Arya Samaj marriage. The description which he has given is of a Hindu marriage, of a purely Hindu marriage which exists amongst all orthodox Hindus—that we must have *saptapadi*, *agni*, and so on. I am trying to differentiate between Hindus and Arya Samajists so that this Bill, if passed, may not apply to those Hindus other than Arya Samajists. No remedy has been suggested. They want to kill two birds with one stone. By passing this Bill, they are seeking the benefit which they would have derived by passing Dr. Bhagavan Das's Bill. As I said in my previous speech, the Bill which was circulated was entirely different from the present Bill, but still several bodies were opposed to retrospective effect being given. I will read some of the opinions. The Chief Commissioner of Delhi says :

An Honourable Member : Is he a Marwari ?

Babu Baijnath Bajoria : He is an European.

An Honourable Member : A Sanatanadharmi too !

Babu Baijnath Bajoria : An European may be an Arya Samajist. but not a Sanatanist.

The Chief Commissioner of Delhi says :

“ If the principle be introduced at the wish of the members of the Arya Samaj community the Bill introducing it should be such as to ensure :

- (1) That there is no retrospective legislation.
- (2) That only members of the Arya Samaj community are affected.
- (3) That only marriages between people who are both members of the Arya Samaj community should be affected.”

The Sri Bharat Dharma Mahamandal says :

“ The orthodox community cannot have any objection to what takes place amongst those who call themselves Arya Samajists, but the greatest difficulty and most harmful question lies in the fact that there is no fixed line of demarcation between an Arya

Samajist and an orthodox Hindu like that of a Hindu and a Muhammadan, a Hindu and Christian and a Hindu and a Buddhaist. In a Hindu family one brother is of orthodox principles and the other an Arya Samajist. Their views are as different and wide as two poles asunder. Hence the Bill must be very critically and scrupulously scrutinised to protect the interest of the orthodox body of the Hindus. Hence the following remarks may be justly made regarding the application of its provisions indiscriminately and widely on other communities who are not Arya Samajists."

I won't read the whole opinion, but I will read only a few more lines :

"The Bill does not say that both the parties should belong to Arya Samaj or that conversion should precede the marriage. It has therefore an important bearing upon them and affects an important aspect of pre-historic Hindu social organisation and personal law of the orthodox Hindus and Moslems and other communities. Further under clause 1 (2) the application of the Act having been made retrospective, it has the effect of injuriously affecting very closely the interests of every community. So the Bill has more serious and pernicious implications than what has been expressed by the short title."

The others who are also opposed to this principle of retrospective effect being given to this Bill are the District Magistrate of Jhansi, the Secretary of the Hindu Sabha, Fyzabad, and Mahamohopadhyaya Pandit Haraprasad Shastri whose opinion I read the other day. There is not much difference between the Arya Samajists and other Hindus. There is great difficulty in defining it and that is why my apprehension is the greatest. My Honourable friend, Dr. Khare, in his opening speech differentiated between Hindus and Arya Samajists by saying that the latter do not worship idols. They may not worship the idols of Vishnu and Shiva, but they worship the photo of Swami Dayanand Sarsawati. That is idolatry, there is no doubt about it.

Some Honourable Members : No, no.

Babu Baijnath Bajoria : Will my Honourable friend, Mr. Gupta, deny it ?

Mr. Ghanshiam Singh Gupta : I have denied it.

Babu Baijnath Bajoria : You do not worship ?

Mr. Ghanshiam Singh Gupta : The photo of Swami Dayanand Sarsawati is never worshipped as God.

Babu Baijnath Bajoria : But you worship him.

Mr. Ghanshiam Singh Gupta : As what ?

Babu Baijnath Bajoria : Then, Sir, there is the question of marriages between converts and Hindus. This is a thing which I can never tolerate. As I said before, Hinduism does not recognise conversion at all. (Interruptions.)

Mr. President (The Honourable Sir Abdur Rahim) : Honourable Members must not go on interrupting like this, or carry on conversation, which makes it very difficult for other Honourable Members to hear the Honourable Member's (Mr. Bajoria's) speech.

Babu Baijnath Bajoria : But the Arya Samajists are carrying on conversion in defiance of Hinduism. If they want to do it, if the law permits it, very well, but a Brahmin, say, converted into an Arya Samajist should not be allowed to marry a girl from the Christian or Muhammadan or any other religion. This is absolutely repugnant to

[Babu Baijnath Bajoria.]

all Hindu ideas. So, if conversion is to be allowed under this law, then marriages must be confined to converts themselves. There is another thing. If a Dwija marries a "patit" or lower caste, then he himself becomes a Sudra, I can quote the authority of Manu, which is as follows :

*"Hena-jah striyam mohat udvahante duijatayah,
Kutanyeva nayanyashu sasannanani shoodratam."*

(Manu, 3,15.)

Sir Cowasji Jehangir : I rise to a point of order, Sir. Is it in order for any Honourable Member to read a thing in a language which nobody understands. We have been hearing these quotations for some time now.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is entitled to quote from any authority he likes, but he should give a translation of it in a language which the House can understand.

Babu Baijnath Bajoria : I will translate it, Sir. I am translating : Those Brahmins, Kshatriyas and Vaishyas who through infatuation enter into wedlock with a woman of inferior creed or caste reduce their families to the status of Sudras for generations.

Sir, this is the position created by marrying a woman of a lower caste. A Hindu, however high his original caste may be, even if he is a Brahmin, becomes a Sudra. Then, Sir, if a Brahmin converts himself into an Arya Samajist and marries a convert from Muhammadanism, under what law will he be governed ? Will the Hindu law apply or Brahmin law or Sudra law or the Moslem law. We have also to consider the question of succession. These are two questions which are inseparable. What I want is that there must not be any retrospective effect to this Bill and converts alone should marry among themselves and no marriage should take place between an original Hindu and a convert from any other religion. I hope the House will give due consideration to what I have said and will accept my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That for clause 2 of the Bill, the following be substituted :

'2. Notwithstanding any law usage or custom to the contrary, no marriage contracted after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that both the parties at any time belonged to a religion other than Hinduism.'

The Honourable Sir Nripendra Sircar : I am very sorry I have got to deprive the House for a few minutes of the pleasure of hearing an entertaining speech from my friend, Mr. Kabeer-ud-Din. I shall be extremely brief. I shall not be dragged into the heat of religious controversy but I shall meet my Honourable friend's point about retrospective effect. I think I am not giving away any secret when I state that my Honourable friend put it to me "You resist sometimes rights

of managing agents being cut away on the ground that there should be no retrospective effect given to legislation unless there is a very strong case for it and how can you support a Bill of this kind". I would beg my Honourable friend to remember this. This is a declaratory Statute. A declaratory Statute does not mean that what had been obtaining before was necessarily unlawful but as a doubt has arisen, that doubt has got to be cleared and therefore a declaratory Act has to be passed and if I may just read two or three lines from Maxwell on " Interpretation of Statutes ", the learned author is pointing out that a Statute should not be construed retrospectively unless the words are very clear and so on and he proceeds to state this :

" If a statute is in its nature a declaratory Act, the argument that it must not be construed so as to take away previous rights is not applicable."

Why is it not applicable ? There must be a reason for it. What rights are we taking away by giving retrospective effect. My friend's answer will be that the issue of those marriages could not inherit. Other people have secured rights and they will be divested by this legislation. That reasoning is wholly wrong because we are not proceeding on the footing that at the present day a marriage between two Arya Samajists who originally belonged to different castes of Hindus or the one was a Hindu and the other was a Moslem—I do not think any Arya Samajist will concede,—nor has it been so held by courts—that the marriage is to be deemed to be invalid. The necessity for this law is that in case such doubts arise—and I am sure my friend, Mr. Bajoria, is quite willing to throw as much doubt on that position as is possible—it is necessary to remove that doubt. We are not taking anybody's rights. We are not proceeding on the assumption that what was previously the status of a concubine is now going to be dignified into that of a wife. That is not the position taken up by the people who have sponsored this Bill nor do I take up that position. I hope that my friend will see the difference between taking away the rights of managing agents and a declaratory Act like this which really wants to remove doubts about this marriage.

Mr. K. Ahmed : Sir, I rise to support the amendment of Mr. Bajoria. I want to quote as much authority as possible so that a portion of clause 2 of this Bill may be expunged ; but, before I do so, you will kindly allow me according to the convention of this House and also Parliamentary procedure to bring to your notice a matter which is of tremendous importance. It refers to an unjustified attack on myself in the Press. I bring to your notice, Sir, because you are the custodian of the rights and privileges and the dignity and honour of each Member of this House. The point which I want to raise is whether it is open to the Press to publish reports of the proceedings of this Honourable House in a *mala fide* manner and whether there is any protection to Honourable Members of this House to guard against all the unjustified attacks and journalistic impropriety. *Bona fide* reporting is permissible, no doubt and not *mala fide* reporting and it is made abundantly clear in May's Parliamentary Practice on page 83 in the Thirteenth Edition. Three newspapers, the *Hindustan Times*, the *Advance* and the *Amrita Bazar Patrika* in their issues, dated the 23rd, 24th, 25th and 26th instant misreported my speech made on the 22nd and 24th September.....

Sardar Sant Singh (West Punjab : Sikh) On a point of order. Is it permissible to refer to personal matters appearing in the Press when an amendment to the Arya Samajist Bill is under discussion ?

Mr. President (The Honourable Sir Abdur Rahim) : A point of order has been raised whether the Honourable Member who is now speaking on the amendment can refer to certain alleged attacks on him personally by some newspapers. If the Honourable Member wants to raise any question of privilege, there are other ways of doing it. At present he ought to confine himself to the amendment.

Mr. K. Ahmed : Very well, Sir, in confining myself to the amendment I must refer to the unfair criticism and to the misrepresentation of facts which has been indulged in, in which I have been wrongly reported and caricatured by the special reporter of these three newspapers. Sir, reporters are allotted seats in the gallery on the understanding that they will correctly report the proceedings and debates of this House, but the point now is whether these papers have not assailed the well-known privilege of all parliaments.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. If the Honourable Member wants to raise the question of privilege, then there are other ways of doing it. If he brings to my notice in my Chamber that any attack has been made by any newspaper upon him in the discharge of his duties in this House, then I shall consider whether any action can or should be taken against it or not.

Mr. K. Ahmed : Very well, Sir, I am thankful to you. I may remind you, Sir, that in the year 1928, two of the reporters in the Press Gallery above did not correctly report the speeches and the Honourable the President took strong exception to the conduct of the press correspondents in the gallery. The matter is on record. And my case is stronger than that.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I would point out to the Honourable Member that if he brings the matter to my notice in the Chamber and points out what are the passages he objects to and which he thinks infringes the privileges of this House, I will consider them and if necessary I will take any step required, but I think the Honourable Member must come now to the amendment before the House.

Mr. K. Ahmed : Now, Sir, the amendment is that in the latter portion of the clause there is a phrase (Laughter)—it is not a matter of laughter, but if I am allowed only a minute or two, Honourable Members will realize their situation, *viz.*, what the thing is going to be. Sir, at the end, in the wording of the amendment it states this : that the parties at any time belong to a different caste or a different sub-caste of the Hindus and “that both parties at any time belonged to a religion other than Hinduism”. That portion, Sir, is where the shoe pinches : and if there is anybody who can convince me that that portion of the Bill, as far as it goes, is right, I shall be very much thankful to him, and it has become a duty incumbent upon me to discharge,—coming as I do from a long distance to take part in this Bill—namely, to point out that my friends do not appreciate the position fully ; and I must congratulate for a moment my friend, Mr. Ghansham Singh Gupta, who has borrowed these sentences

of the Bill from our late colleague with whom I was very intimately associated from 1927 to 1930,—Mr. Muktar Singh, a pleader practising in the Meerut Courts. Well, Sir, this includes a Muhammadan, Christian, a Jew, a Parsi or anybody else who can contract a marriage with a Hindu girl and become an Arya Samajist before or after becoming an Arya Samajist, but let us see what is the position. Why are you so fond of making a Muhammadan a convert to the creed of the Arya Samaj? Are you not satisfied with your inter-caste marriage, with your Civil Marriage Act or with your Special Marriage Act? Why do you bring in these Muhammadans, Christians, Parsees and Jews who have got nothing to do with you, and then when you come to clause 3 for the purpose of sharing in the inheritance to the property of the two lovers in the marriage, their issues born in the wedlock will come to fight in the law courts; and lawyers get busy like my Honourable friend, the Law Member, who must have relished the bounteous fees that he has received from similar huge properties left by a multi-millionaire like my friend, Sir Cowasji Jehangir, as their estates came under decision before the courts. Sir, if there is a political reason underlying this measure, if there is a policy for a sinister motive behind this Bill, I would ask my Arya Samajist friends to consider for a moment what was the fate of Swami Shraddhanand who was not in any way inferior to Swami Dayanand. Do my friends forget what happened only a few years ago in the Imperial City of Delhi when Swami Shraddhanand was murdered? As far as my knowledge goes, Sir, a Muhammadan was married to a girl who was a non-Muhammadan, who was an Arya Samajist probably,—and now, Sir, I know the tactics, how you want to multiply the number of your population,—not by the front door but by the back-door. (Laughter.) Sir, they have got the Shuddhi movement and the Muhammadan have got the Tabligh movement, and what do they want to do by the Shuddhi movement? And what was the reason of the murder of Swami Shraddhanand, tell me? (Cries of "Order, order.") What is the use of my friends shouting like school boys over there?

Dr. N. B. Khare : Will the Honourable Member kindly state if he is suggesting that I should be murdered for moving this Bill?

Mr. K. Ahmed : Sir, we have a Bengali proverb : "*Mookhey Ram, Ram, Bogolay Chhooree*"—"You take the name of Ram, Ram, and at the same time you have a dagger in your arm-pit". If your policy was not to bring that Muhammadan wife into the Shuddhi form of Arya Samaj conversions, and if the husband was not agreeable, and provoked, tell me what was the reason of some people committing the murder of Swami Shraddhanand?

Mr. M. S. Aney : Sir, does my Honourable friend want to convey an impression to the House that he approves of the murder of Swami Shraddhanand?

Mr. K. Ahmed : That is a side issue—that is for the Honourable the Law Member to enlighten my Honourable friend upon. I am not an accused under trial before a judge, like my friend, Mr. Aney, who might have given his approval.

The Honourable Sir Nripendra Sircar : Sir, if my friend is appealing to the Law Member, well, certainly that is the impression which was created,—that he is approving of the murder of Swami Shraddhanand,

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must confine himself to the amendment.

Mr. K. Ahmed : Sir, the amendment talks of "both the parties at any time belonged to a religion other than Hinduism"—and I say, Sir, that as Muhammadanism is a religion, and therefore as a Muhammadan husband or a Muhammadan wife was dragged into the court with a sinister motive on the part of the followers of Swami Shraddhanand, viz., to convert the Muhammadan wife into the creed of the Arya Samaj, with the possible consequence of the poor children being left to totter about, uncared for and unlooked after, there was an intense feeling aroused into the mind of the poor husband, who I say would not otherwise have committed the murder of Swami Shraddhanand.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. The Honourable Member is still not speaking on the amendment.

Mr. K. Ahmed : Now, Sir, let us see what the Honourable Judges of different High Courts have said on this Bill. Justice Bisheshar Nath Srivastava of the Chief Court of Oudh says :

"I am in favour of the principle of the Bill. But the marriages between the different castes of Hindus have been held to be invalid and I would omit the reference to 'different religions' in section 3. The use of these words opens out a much larger question and is outside the scope of the Bill as given in the Statement of Objects and Reasons."

Now, what is the Statement of Objects and Reasons ? I will read it out to the House :

"As the Arya Samajists who form quite an appreciable number of the Indian population conscientiously believe that the present caste system is not in accordance with their scriptures, the Vedas and the sacred Shastras and as according to the law as administered at present marriages between parties belonging by birth to different castes or sub-castes are considered invalid and there is a fear of the issue of such marriages being declared illegitimate and as quite a large number of such marriages have taken place and more would have taken place had there been no such obstacle, it is necessary to have a law which would give relief to the Arya Samajists."

But why in Heaven's name you bring in the Muhammadans, the Christians, the Jews, and the Parsis. Leave them out altogether. What is the use of dilly-dallying and shilly-shallying and saying a thing which is of no use. Now, let us see what the other Judges say. Mr. Justice Nanavutty, who is an I. C. S. Judge and whom I know very well because we were together in our college life at Cambridge. He says :

"This clause considerably widens the scope of the Bill for it legalises marriages of Arya Samajists with Muslims and Christians. This clause thus goes against the preamble to the Bill which lays down that the Bill is meant to recognise the validity of inter-marriages amongst the Arya Samajists themselves."

What is the answer to this ? What is the use of those people shouting me down unnecessarily and creating all sorts of obstacles in this House ? If they have got an answer to this, let them bring it before the House. Let them use their tongues if they have any now. Mr. Justice Nanavutty goes on to say :

"So far as I am aware, no one has ever challenged the validity of the marriages where the two contracting parties are Arya Samajists. It is only the union of Arya Samajists with Muslim and Christian women that is resented and disapproved of by orthodox Hindus and Muhammadans."

That is where the trouble comes in. There may be a marriage between an Arya Samajist and a Muhammadan which is disapproved of by orthodox Hindus and Muhammadans.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : I rise to a point of order, Sir. We are now discussing amendment No. 12, which deals with the same matter, in this respect, as the original clause. It has nothing to do with marriages excepting those between Arya Samajists whose earlier religion was either Hinduism or Islam or Christianity. There is a later amendment which deals with that.

Mr. President (The Honourable Sir Abdur Rahim) : It covers also the cases of marriages of persons who belonged to different religions.

Mr. K. Ahmed : Mr. Satyamurti does not realise what is going on in the House. I will now complete the quotation :

“ It is well-known and it is resented and disapproved of by the orthodox Hindus as well as Muhammadans. And if this Bill is meant to validate such union, it is sure to rouse much religious passions and bad blood between these two great communities.”

Do you want the trouble of 1926 when Lord Irwin landed in Bombay and hundreds and hundreds of people got killed ? Is that what you want by having this Bill passed ? I warn you. Be wise. Do not become hopeless like these young lovers who are anxious to get married. It is one thing to be in love sick, but the country expects the Members of this House to use their judgment and pass an enactment which will be acceptable to the country. We should not become impatient like the young lovers. Now, Sir, I will read the opinion of the Chief Justice of the High Court of Allahabad. He says :

“ The draft Bill goes beyond the Statement of Objects and Reasons.”

Now, I ask the Law Member whether he is not making a mistake.

The Honourable Sir Nripendra Sircar : As the Honourable Member has put a question to me, may I point out that these opinions are all irrelevant for they are criticisms of a draft from which it was not clear whether both the persons were to be Arya Samajists at the time of the marriage. All these criticisms point out that this Bill might rope in Muhammadans and Christians. My friend is now reading the opinions which have no admiration for the Bill before the House.

Mr. K. Ahmed : I am very thankful to my Honourable friend who is getting much more than myself and he is labouring under a misapprehension. That may be so, but the facts are there. You cannot change the wording of the Statement of Objects and Reasons as set out in the original Bill.

The Honourable Sir Nripendra Sircar : It has been changed.

Mr. K. Ahmed : That is illegal ; it is improper and you cannot do it. You have got no jurisdiction whatever to do it. The Report of the Select Committee is signed by the Honourable the Law Member, the next name is that of my Honourable friend, Rao Bahadur M. C. Rajah. Because he was a school master, he did not know what he was signing.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member ought not to make such personal remarks.

Mr. K. Ahmed : I withdraw, Sir. The next name is that of Mr. G. S. Gupta, next is Dr. Khare, who is a medical man and who is not expected to know much of law. Then, Dr. Bhagavan Das, who is probably a Doctor of Literature, and then, Mr. Spence, the Secretary of the Legislative Department. When the Law Member is sitting on the Select Committee, we cannot expect his Secretary, Mr. Spence, to differ from him. Then, we have Dr. Deshmukh, who, I know, is a good surgeon, and he has nothing to do with law ; next my Honourable friend, Sardar Sant Singh, who is a District Court pleader of Lyallpur, and lastly, we have Mr. Aney of the Berar Court under His Exalted Highness the Nizam. I say the Members of the Select Committee acted beyond their jurisdiction. They have committed a breach of trust and a breach of faith. I submit, Sir, that we, Hindus and Muslims have been living in this country from generation to generation and now please do not bring in a Bill which is neither liked by a majority of Hindus themselves nor by anybody else except the young Swarajists on the Congress Benches, who, if I may say so, are love-sick. I submit the time has come when they should disburse and take advice from their elders and then come to this House to enact a legislation beneficial to the country, to the Hindus and Muslims alike. I, therefore, suggest that the following words in the clause 2 :

—“ or that both the parties at any time belonged to a religion other than Hinduism ”—

be expunged from the amendment of my Honourable friend Babu Baijnath Bajoria. Otherwise trouble will arise. The intention seems to be to convert all the Christians, Muslims and others into the Arya Samajist fold and take hold of their property. Now, let us see what the Chief Justice of

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has already referred to many of the opinions and I think he ought to be content with them. They should be quite enough.

Mr. K. Ahmed : What I meant to say was that I have several other authorities in support of my contention. Even the Judges of the Madras High Court have said that. I therefore say that these words should be expunged. If you do not do so, it will create disturbance in the land. If this Bill is confined to Arya Samajists who are a portion of the Hindus, there would be no disturbance or chaos in the land. If you touch the other communities, I warn you that chaos will prevail. For heaven's sake, do not drag us.

The Honourable Sir Nripendra Sircar : Not easy to drag you.

Mr. K. Ahmed : One puisne judge of the Chief Court of Oudh, Justice Bennet, who is a European I. C. S., has said that this provision is against Muslim law and he has definitely said that “ marriage between a Muslim and one who is not a Kitabi is invalid under Muhammadan law ”. The Bill should say clearly that nothing under its provision will affect the succession to any property under the provisions of the Muhammadan law. I, therefore, appeal that in the larger interests of the country, this House ought to expunge those words from the amendment. It is the duty of Government to mete out justice between Hindus and Muslims and not to create trouble. With these words, I appeal to the House to delete those words from the amendment.

Sardar Sant Singh : I am very glad that my Honourable friend, Mr. Kabeer-ud-Din Ahmed, who hails from Malda, probably finding his practice at law to be briefless took to legislation.

Mr. K. Ahmed : Is there any justification for my Honourable friend over there to shout like a rickshaw assistant. He must withdraw what he has said.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must withdraw those words.

Sardar Sant Singh : What I referred to was that not finding briefs at law, he took to legislation. If this is unparliamentary, I have no objection to withdraw.

Mr. President (The Honourable Sir Abdur Rahim) : Considering the fact that the Honourable Member is a practising Barrister, the Honourable Member (Sardar Sant Singh) should withdraw that observation.

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammedan Rural) : Sir, on a point of order, the Honourable Member called me a rickshaw coolie. Is that parliamentary ?

Mr. President (The Honourable Sir Abdur Rahim) : I heard the words "rickshaw assistant". If the Honourable Member objects to that, certainly he must withdraw it.

Pandit Sri Krishna Dutta Paliwal : He speaks like a coal mine coolie.

Sardar Sant Singh : Sir, during the course of this debate, several speakers have referred, among other pieces of legislation, to the Anand Marriage Act, and the Mover of the present amendment, my Honourable friend, Mr. Bajoria, has also referred to that Act having been passed for the benefit of the Sikhs. I just want to remove certain misapprehensions about that Act and the difference of that Act from the present legislation. This piece of legislation not only tries to remove certain doubts as to the validity of marriages between parties of different castes but it goes further, while the Anand Marriage Act was passed only to remove doubts as to the validity of the ceremony of marriage prevalent among the Sikhs. I will read from the Preamble of the Act itself :

"Whereas it is expedient to remove any doubts as to the validity of the marriage ceremony common among the Sikhs called Anand, it is hereby enacted as follows : "

The scope of that Act was very limited. Probably the Members of this House do not know that the Sikhs have got a peculiar ceremony of marriage which is called Anand which is not in the old Sanskrit language as it prevails among the Hindus but in the pure Punjabi language in the words of our great Guru. So the present Bill cannot be compared with that Bill. In matters of validity of marriages a portion of the Sikhs is governed by the Hindu law and others by the customary law as prevalent in the Punjab ; and that customary law is not only territorial but sometimes it is a tribal law too. It differs from district to district and from tribe to tribe. So that Act cannot in any way be compared to the present Bill.

Babu Baijnath Bajoria : What the Honourable Member says cuts at the root of Mr. Gupta's argument.

Sardar Sant Singh : It is for the Honourable Member to come to his own opinions ; I have no opinion to offer on that point. I only wanted to remove a misapprehension about this Bill and the old Anand Marriage Act.

Coming to the amendment, I will say that really I have not been able to understand Mr. Bajoria's arguments in not giving retrospective effect to marriages while at the same time recommending by this amendment that marriages after the commencement of this Act should be considered valid. I need not try to define a marriage because it leads us into many controversies. Either it is a sacrament, as according to the Hindu shastras, or it is a contract between the contracting parties ; but at the same time there is no doubt that the ceremony of marriage furnishes merely an evidence that a man and woman or a young boy and girl have been joined in a nuptial ceremony for the purpose of leading a chaste life for the rest of their life. If he is agreeable that inter-caste marriages should be recognised by law after the commencement of this Act, there does not seem to be any reason why we should perpetuate a wrong against the offspring of these marriages which, when celebrated, were considered to be valid but which by some ruling of the High Court or some interpretation have come to be regarded as doubtful marriages. This is an illogical inconsistency and my friend ought to explain why it should not be agreed to.

Then, in the amendment itself, there are certain words which are not very happy. In the amendment my Honourable friend says :

“ That for clause 2 of the Bill, the following be substituted :

‘ 2. Notwithstanding any law, usage or custom to the contrary, no marriage contracted after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that both the parties at any time belonged to a religion other than Hinduism.’ ”

He does not provide for a case where one of the parties belongs to a different caste or sub-caste. Either he has omitted it consciously or it has been omitted unconsciously.

Babu Baijnath Bajoria : The Honourable Member has not followed the amendment at all. I say, “ both parties at any time belonged to a religion other than Hinduism ”. As regards different castes and sub-castes, no provision is made for them if one of the parties is a Hindu.

Sardar Sant Singh : One of the parties.

Babu Baijnath Bajoria : In the case of converts from other religions it must be both parties. But in the case of different castes it does not arise ; one party may be of one caste and the other party may be of another caste.

Sardar Sant Singh : Here in the Bill itself as it emerged from the Select Committee the words used are :

“ shall be deemed to have been invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that either or both of the parties at any time belonged to a religion other than Hinduism.”

Babu Baijnath Bajoria : I want that amended.

Sardar Sant Singh : Here what the Honourable the Mover of the amendment means is that both parties at any time belonged to a religion other than Hinduism. That is to say, he wants this law to apply only to converts from different religions when both man and woman are converts,—not either. He does not say, either. That is exactly the difficulty that I am pointing out. If one of the parties is converted to Arya Samaj and he marries the other who was never converted, this provision would not apply if this amendment is carried. That will be most illogical and will defeat the purpose of this Bill itself. This clause is the substantive clause of the whole Bill. Therefore the only objection which I want my Honourable friend, the Mover of the Bill, to explain to the House is how far he is justified in introducing legislation in India which legislation is a sort of personal law for a particular community or a part of that community. This personal stage of legislation should now be given up in favour of the territorial stage, or the law should apply to the whole of India or to a major portion of India. That will be a stage of civilisation by which this piece of legislation is carrying us much to the older times than to the advanced stage where the law is made to apply equally to all inhabitants of different religions. I would rather like a piece of legislation to be enacted in this House which should be extended to all communities and to all persons in matters of heredity of marriage as well as in matters of succession. This is an objection which my Honourable friend

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can complete his speech the next day. The
5 P.M. House will now adjourn till tomorrow at 11 o'clock.

The Assembly then adjourned till eleven of the Clock on Wednesday, the 30th September, 1936.

L383LAD

LEGISLATIVE ASSEMBLY.

Wednesday, 30th September, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

QUESTIONS AND ANSWERS.

GRIEVANCES OF THE TRAVELLING PUBLIC AGAINST THE BENGAL AND NORTH WESTERN RAILWAY.

709. *Maulvi Badrul Hasan : (a) Has the attention of Government been drawn to a letter headed "Grievances against Bengal and North Western Railway" published in the *Indian Nation*, Patna, dated the 26th May, 1936 ?

(b) Are Government aware that the citizens of Muzaffarpur (Tirhoot) feel much inconvenience on account of the absence of a sub-way near the railway station ?

(c) Are Government prepared to exert their influence on the Bengal and North Western Railway to erect a sub-way near the station in order to remove the inconvenience felt by the public at the railway crossings ?

(d) Are Government aware that a pointsman was injured on the 1st July, 1936 in the Bhagwanpur station of the Bengal and North Western Railway ?

(e) Are Government aware that the said man died in Muzaffarpur Hospital and his death was due to profuse bleeding and to the absence of any first hand medical aid ?

(f) Are Government prepared to make a rule that no railway employees should be given charge of a railway station as Station Master, unless he obtains a certificate of a first hand medical aid knowledge ?

(g) Are Government aware that the Bengal and North Western Railway Company has reduced the number of *khalasis* in the railway stations with the result that the consignors themselves have to load their consignments in the goods trains ?

(h) Are Government aware that there are yet no electric fans in the waiting rooms at Muzaffarpur, Darbhanga, Samastipur and other important stations, though the said stations have got electric light ?

(i) Are Government prepared to exert their influence on the Bengal and North Western Railway Company to fit electric fans at all the important stations ?

(2065)

(j) Have Government given notice to the Bengal and North Western Railway, terminating their contract, as resolved by the Assembly during the last Session ?

(k) If the reply to part (j) be in the negative, do Government intend to give such notice ? If so, when ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the article referred to.

(b) and (c). The question of replacing one of the level crossings at Muzaffarpur by an overbridge has been raised through the local advisory committee, and has been referred by the Railway Administration to the local authorities.

(d) Yes.

(e) The man died two days after the accident. There was no medical aid available at Bhagwanpur. The train staff gave him first aid treatment and he was sent on by the same train to Muzaffarpur Civil Hospital, which was the nearest place at which skilled attention was obtainable.

(f) The Honourable Member's attention is invited to the reply given to Mr. Sham Lal's question No. 882 in this House on the 27th February, 1936.

(g) The Agent states that labour is maintained at all stations for loading and unloading goods.

(h) Government have no information.

(i) The matter is within the competence of the Railway Administration, whom Government consider to be in the best position to decide on the relative urgency of this as compared with other works.

(j) and (k). I would refer the Honourable Member to the reply I gave to starred question No. 38 by Mr. S. Satyamurti on the 1st September, 1936.

Mr. Ram Narayan Singh : How is it that there is no much clamour raised against the administration of the B. N. W. Railway, and yet Government have always turned a deaf ear to this ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I could not follow the question.

Mr. Ram Narayan Singh : My question is, how is it that when so much clamour is made against the management of the B. N. W. Railway, but the Government has not paid any attention to the complaints, rather they have always turned a deaf ear to them ?

The Honourable Sir Muhammad Zafrullah Khan : It is not correct that Government have turned a deaf ear.

REDUCTION IN THE STAFF OF THE RAILWAYS.

710. ***Maulvi Badrul Hasan :** Are Government aware that there has lately been a reduction in the staff of the State-owned and State-managed Railways ? If so, how many Europeans, Anglo-Indians and Indians holding superior posts have been so reduced ?

The Honourable Sir Muhammad Zafrullah Khan : The adjustment of number of staff to current requirements is in progress. Available information in respect of number of superior officers by communities will be found in Chapter VI of Volume I of the Reports by the Railway Board on Indian Railways, copies of which are in the Library of the House.

PERCENTAGE OF BIHARI HINDUS AND MUSLIMS IN THE EAST INDIAN RAILWAY.

711. *Maulvi Badrul Hasan : (a) What is the percentage of Bihari Hindus and Bihari Muhammadans in the East Indian Railway ?

(b) Do Government propose to increase the number of Biharis in the said Railway ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have no information.

(b) Government cannot accept a policy of recruitment into railway services on a provincial basis.

ABSENCE OF A WAITING ROOM OR SHED AT THE PHULWARI SHARIF STATION ON THE EAST INDIAN RAILWAY.

712. *Maulvi Badrul Hasan : (a) Are Government aware that there is no waiting room or shed at the Phulwari Sharif Station of the East Indian Railway ?

(b) Do Government propose to advise the Railway authorities to provide one such shed at the said station ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have no information.

(b) Such matters are within the competence of the Railway Administration, whom Government consider to be in the best position to decide their relative importance.

CONTRACT FOR BUILDING THE POSTAL SUPERINTENDENT'S AND OVERSEER'S QUARTERS AT MUZAFFARPUR.

713. *Maulvi Badrul Hasan : (a) Are Government aware that the contracts for building the Postal Superintendent's and the Postal Overseer's quarters at Muzaffarpur have been given to some Delhi contractors ?

(b) If the answer to part (a) be in the affirmative, why were the said contracts not given to any local contractor ?

The Honourable Sir Frank Noyce : (a) The reply is in the affirmative so far as the quarters for the Superintendent of Post Offices is concerned. No quarters have been constructed for the Postal Overseer at Muzaffarpur but quarters have been built there for the Sub-Divisional Officer, Telegraphs, by the Central Public Works Department.

(b) Only one local contractor submitted tenders and they were rejected because they were incomplete and did not contain the actual figures of his tenders in the tender form.

PERCENTAGE OF BIHARI HINDUS AND MUSLIMS IN THE INDIAN MEDICAL SERVICE.

714. *Maulvi Badrul Hasan : (a) Will Government be pleased to state the percentage of the Bihari Hindus and Bihari Muhammadaus in the Indian Medical Service ?

(b) Are Government aware that some vacancies in the Indian Medical Service are going to be filled in by nominations ?

(c) Are Government prepared to nominate some Biharis in the said Service ?

Mr. G. R. F. Tottenham : (a) Recruitment to the Indian Medical Service is not made on a provincial or communal basis. Government are therefore unable to furnish the information asked for.

(b) Yes, after examination by a Selection Board.

(c) Yes, if they merit selection by reason of their qualifications in comparison with other candidates, but not on the ground that they are Biharis.

POPULATION OF FIJI AND COMMUNAL REPRESENTATION IN THE FIJI LEGISLATIVE COUNCIL.

715. *Mr. Ram Narayan Singh : (a) What is the total population of Fiji and what are the respective numbers of Fijians, Indians, Europeans and others therein ?

(b) Will Government be pleased to state the composition of the present Legislative Council of Fiji ?

(c) Is it a fact that the Colonial Secretary has introduced a new scheme of communal representation in the Council, and, if so, what is that scheme ?

(d) Has the scheme mentioned in part (c) satisfied the various communities living in the Fiji Island and, if not, why not ?

(e) Have Government been consulted in the matter, and, if so, what are their recommendations ?

Sir Girja Shankar Bajpai : (a) A statement containing the required information is laid on the table of the House.

(b) The present Legislative Council of Fiji consists of His Excellency the Governor as President, not more than thirteen nominated (official) members, six elected European members, three elected Indian members and three Fijian members selected by the Governor from a panel submitted by the Great Council of Native Chiefs.

(c) The Honourable Member's attention is invited to my reply to Mr. T. S. Avinashilingam Chettiar's starred question No. 68 on the 2nd of this month.

(d) Government have no information.

(e) I would invite the Honourable Member's attention to the Honourable Kunwar Sir Jagdish Prasad's speech in the Council of State on the 18th March, 1936, on a Resolution moved by the Honourable

Mr. P. N. Saprú, and to my reply to Mr. Satyamurti's starred question No. 100 asked in this House on the 6th February, 1936.

Statement.

The estimated population of Fiji as on the 31st December, 1934, was as follows :

Fijians, Polynesians and Rotumans	..	..	..	102,843
Indians	..	..	..	82,389
Europeans	..	..	..	4,763
Half-castes	..	..	..	3,717
Others	..	..	..	2,837
Total	..	..	..	196,549

NEGOTIATIONS WITH THE BRITISH GOVERNMENT FOR A NEW TRADE AGREEMENT.

716. *Mr. Ram Narayan Singh : Is it a fact that Government have started new negotiations with the British Government for a new Trade Agreement in place of the Ottawa Agreement of 1932, and if so, will Government consult this Assembly in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member's attention is invited to the reply given by me to Seth Govind Das's starred question No. 701 yesterday.

Mr. S. Satyamurti : May I know, Sir, whether the whole question of the basis of the new negotiations has been referred to the Advisory Committee which is now sitting in Simla ?

The Honourable Sir Muhammad Zafrullah Khan : There is no Advisory Committee sitting in Simla, non-official Advisers have been asked to advise the Government on the matter.

Mr. S. Satyamurti : May I know what are the exact terms of reference to them, or what are their exact functions in respect of the new negotiations to replace the Ottawa Agreement ?

The Honourable Sir Muhammad Zafrullah Khan : They will advise Government as to the lines along which in their opinion the possibility of concluding a fresh trade agreement ought to be explored.

Mr. S. Satyamurti : May I know if any materials or papers have been placed before them, and if so, what are those ?

The Honourable Sir Muhammad Zafrullah Khan : The opinions received from Local Governments as well as other interests concerned are being supplied to the non-official Advisers, and I have no doubt that any other information which they may call for and which Government are in a position to supply will be supplied to them.

Mr. S. Satyamurti : Have Government supplied the non-official Advisers with any tentative proposals of their own ?

The Honourable Sir Muhammad Zafrullah Khan : No.

Mr. S. Satyamurti : May I know if any counter proposals or suggestions by the British Government have been received by the Government of India, and if they have been placed before these non-official advisers ?

The Honourable Sir Muhammad Zafrullah Khan : Obviously, there could be no counter proposals unless proposals are put forward, and that stage has not yet been reached.

Mr. S. Satyamurti : May I know, therefore, that these non-official Advisers have no materials before them to indicate to them the mind of this Government or of the British Government as to the lines on which the new negotiations are to be conducted ?

The Honourable Sir Muhammad Zafrullah Khan : Inasmuch as those who are invited have to advise Government as to the lines along which negotiations should be conducted, surely there could be no lines settled by the Government.

Mr. S. Satyamurti : I am asking, Sir, only about the tentative suggestions whether there is any official of the Government in touch with them, so that they may have some indication as to the lines on which Government would like the matter to be investigated.

The Honourable Sir Muhammad Zafrullah Khan : Government will consider the matter in consultation with these non-official Advisers and will then settle the lines along which negotiations are to be conducted.

Dr. Ziauddin Ahmad : Is it the intention of the Government to send these non-official Advisers to England also ?

The Honourable Sir Muhammad Zafrullah Khan : I have already answered this question that if the stage of oral negotiations is reached it is possible that these gentlemen may be invited to proceed to London.

Mr. S. Satyamurti : May I know whether the Government have considered or will consider the desirability, from all relevant points of view, of inviting delegates from Great Britain to India ?

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that question also, that Government have had that matter in view.

Mr. S. Satyamurti : May I know whether these non-official Advisers will have all the time, the assistance of the Government, whether there will be a continuous *liaison* kept between the Government and the non-official Advisers, so that they may have the benefit of their advice and the ultimate solution may be the result of the action and reaction of these two sets of authorities, and not one set of authorities acting independently of the other ?

The Honourable Sir Muhammad Zafrullah Khan : All I can say is that there will be the fullest consultation between the Government and the non-official Advisers.

Mr. K. Ahmed : Is it open to any private individual or Members of this Assembly to give advice to the non-official Advisers so that from the point of view of their own views, legal or illegal, they may consider and balance in their mind, in order to impart advice to the Central Body ?
(Laughter.)

The Honourable Sir Muhammad Zafrullah Khan : That is a very general question.

Mr. S. Satyamurti : May I know whether these non-official Advisers will be called in after the stage is reached when the Government of India formulate their proposals and hear from the British Government their views on those proposals, or are their functions to be over merely with advising this Government ?

The Honourable Sir Muhammad Zafrullah Khan : That is a hypothetical question, but if at any stage before any final conclusion is reached it becomes desirable that further consultations should take place, they will take place.

Mr. S. Satyamurti : Will the report of the non-official Advisers be published for public information ?

The Honourable Sir Muhammad Zafrullah Khan : I do not think there is any question of any report being made.

Mr. S. Satyamurti : Or will their recommendations or suggestions be published ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say.

KING GEORGE MEMORIAL FUND.

717. **Mr. Ram Narayan Singh :** (a) Is it not a fact that Government have inaugurated the King George Memorial Fund and if so, what are the aims and objects of this movement ?

(b) Is there any central authority to supervise and control the collection and if so, what is its constitution ?

(c) Have Government issued any circular or circulars to various Local Governments and if so, will they place them on the table of this House ?

(d) What is the total collection to this Fund all over the country till now and how long will the collection continue and up to what amount ?

(e) Is the collection a voluntary or a compulsory one ?

The Honourable Sir Henry Craik : (a) Funds, in Delhi and in the Provinces respectively, have been opened by the Viceroy and the Governors, in order to raise memorials to the late King George.

(b) No. The Funds are separate. Contributions to the Viceroy's Fund are received by his Private Secretary.

(c) No circulars have been issued.

(d) The contributions to the Viceroy's Fund up to September 6th amount to Rs. 1,15,644. No date has been fixed for the Fund to close.

(e) It is scarcely necessary for me to say that the Fund is being raised by voluntary subscription.

Prof. N. G. Ranga : For what purposes will the proceeds of these Funds be utilised ?

The Honourable Sir Henry Craik : That depends on the decision of those managing the various Funds.

Mr. Mohan Lal Saksena : Will Government issue instructions that subscriptions should not be collected through revenue, police and income-tax officials ?

The Honourable Sir Henry Craik : It would be for Local Governments to issue such circulars if they consider them necessary.

Pandit Nilakantha Das : Income-tax does not belong to Local Governments.

Mr. Ram Narayan Singh : Do Government realise that realisation of subscription by official agency cannot remain voluntary ?

The Honourable Sir Henry Craik : No. Government do not realise that.

Prof. N. G. Ranga : Who manages the Viceroy's Fund ?

The Honourable Sir Henry Craik : The Private Secretary.

Mr. Ram Narayan Singh : Are Government aware that in the province of Bihar, especially in my district of Hazaribagh the whole police force was engaged in collecting subscription for the Silver Jubilee Celebration and even the poorest of the people had to pay something towards the same ?

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise.

Mr. Ram Narayan Singh : It arises in this way, that subscriptions are said to be voluntary.

Mr. President (The Honourable Sir Abdur Rahim) : What happened as regards another Fund has nothing to do with this question.

Mr. Ram Narayan Singh : Will Government see the justice and wisdom of stopping this practice of realising any subscription by official agencies ?

The Honourable Sir Henry Craik : I have already answered a general question on that subject earlier in this Session.

CONSTRUCTION OF AN OVERBRIDGE AT THE GUDUR JUNCTION STATION.

718. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) if any representations had been made by the local residents of Gudur in Madras Presidency for the construction of an over-bridge over the railway line at the Gudur junction station ;
- (b) if they are aware of the fact that the local people are frequently fined for trying to cross the railway line, or even for walking along the railway bund ;
- (c) if they are aware of the great inconvenience caused to the local people by the railway cutting the town in twain, while providing no over-bridge for people to pass conveniently from one part of the town to the other ; and
- (d) whether they propose to consider the advisability of making the Madras and Southern Mahratta Railway to construct an over-bridge ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No representation has been received by Government.

(b) to (d). Government have no information regarding the inconvenience referred to. The Honourable Member is no doubt aware that crossing the railway line and lands except at the crossing places provided constitutes trespass, and is fraught with danger to the trespasser. The policy of Government is to leave to the discretion of the Railway Administration such matters as the provision of overbridges where the traffic justifies them. The question, therefore, is one best referred to the Agent of the Railway concerned through the Local Advisory Committee.

CONSTRUCTION OF RAILWAY STATIONS AT MACHAVARAM IN THE GUNTUR DISTRICT AND NIDIGALLU IN THE NELLORE DISTRICT.

719. *Prof. N. G. Ranga : Will Government be pleased to state .

- (a) if the local residents of Machavaram and its neighbourhood in Guntur District and Nidigallu in Nellore District have asked for the construction of railway stations and have shown how the railway traffic will increase thereby ; and
- (b) if so, whether they propose to consider the advisability of establishing those stations on the Madras and Southern Mahratta Railway ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have no information.

(b) Does not arise.

ALLOWANCES GIVEN TO THE MEMBERS OF THE RAILWAY ADVISORY COMMITTEES.

720. *Prof. N. G. Ranga : Will Government be pleased to state :

- (a) the allowances and the travelling allowances given to the members of the Railway Advisory Committees ;
- (b) whether they propose to consider the advisability of reducing the allowances to the level of allowances granted to the Members of the Legislative Council ; and
- (c) whether they are prepared to spend the money thus saved upon increasing the representation upon the Advisory Committees for the peasants and third-class passengers ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Members other than railway or Government servants are allowed Rs. 32 for each meeting attended and an extra allowance of Rs. 10 per day for any day or days spent in travelling between their town of residence and the place of meeting, for which the fee of Rs. 32 is not admissible. They are also allowed free travel between their town of residence and the place at which the meeting is held.

(b) The question of a reduction was considered a few years back but was negatived.

(c) Does not arise, but the question of adequate representation of various interests on these Committees will be discussed shortly with the Central Advisory Council for Railways.

Prof. N. G. Ranga : Why is it, in view of the fact that members of the Local Legislative Councils are given a daily allowance of only Rs. 10 and nothing more, that Government do not see the necessity of revising the scale of allowances granted to these people which are easily three times as much as those granted to Local Legislative Council members ?

The Honourable Sir Muhammad Zafrullah Khan : That is an argument, but, after all, the question has to be discussed with these Committees, and as it perhaps quite natural, they are most reluctant that a reduction should be made in their allowances.

Prof. N. G. Ranga : Is not the question of the scale of allowances to be granted to these people to be decided by the railway authorities and not by the members of the Local Advisory Committees ?

The Honourable Sir Muhammad Zafrullah Khan : I should be very glad to make a reduction, but I am afraid there would be a good deal of objection to it.

RECRUITMENT TO THE INCOME-TAX DEPARTMENT.

721. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) if the recruitment to the Income-tax Department is made through the Public Service Commission ;
- (b) if not, how it is made ;
- (c) why it is not made through the Public Service Commission ; and
- (d) whether even promotions are not being made at present in accordance with seniority and efficiency ?

The Honourable Sir James Grigg : (a) No.

(b) Appointments to all non-gazetted posts are made by Commissioners or Assistant Commissioners of Income-tax either by direct recruitment or by promotion from lower grades. The posts of Income-tax Officers are generally filled by departmental promotion from the subordinate executive service and those of Assistant Commissioners ordinarily by promotion from Income-tax Officers, but occasionally by appointment from the Indian Civil Service. Commissioners are appointed by the Government of India either from the Indian Civil Service or by promotion from Assistant Commissioners. The Public Service Commission is consulted when the appointments of Assistant Commissioners are made by promotion.

(c) As appointments to all superior posts in the Income-tax Department are made generally by promotion, it is not considered necessary to make their recruitment through the Public Service Commission.

(d) No.

Prof. N. G. Ranga : Why is it there are no committees appointed to advise the Income-tax Commissioners in making their appointments ?

The Honourable Sir James Grigg : Committees of whom ?

Prof. N. G. Ranga : Committees of non-official advisers.

The Honourable Sir James Grigg : Why should there be ? It strikes me as an extraordinary suggestion that you should attach to every Government Department a soviet, shall I say,—I do not mean to be offensive—a soviet of politicians in order to ensure that appointments in Departments shall not be made on political grounds.

Mr. S. Satyamurti : Keep them for the Reserve Bank !

The Honourable Sir James Grigg : Incidentally I may say, by way of consolation to the Honourable Member, that the question of the administrative arrangements in the Income-tax Department is one of the most important matters under the consideration of the expert advisers.

RATIFICATION OF THE INTERNATIONAL LABOUR CONVENTION REGARDING FORCED LABOUR.

722. **Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) if they have not ratified the International Labour Convention regarding Forced Labour ;
- (b) if they have ratified it, whether they have taken any effective steps to put a stop to the practice of " Forced Labour " resorted to by their own Departments and officers ;
- (c) what action has been taken to compel Local Governments to stop the " Forced Labour " ; and
- (d) what they propose to do to stop the " Forced Labour " practice in the excluded and partially excluded areas ?

The Honourable Sir Henry Craik : (a) The Resolution which was adopted by the Legislative Assembly and the Council of State in 1931 runs as follows :—

" While considering that the Draft Convention on forced labour could not be ratified until Article 2 thereof is modified so as to exclude labour exacted under the Criminal Tribes Act, the Good Conduct Prisoners' Probational Release Act and other similar legislation in force, this Council ^{Assembly} recommends to the Government of India that they proceed to take action on all other provisions contained in the Draft Convention and the Recommendations as soon as may be practicable."

(b), (c) and (d). Acting on that recommendation the Government of India obtained from Local Governments information of the forms of forced or compulsory labour occurring in the various provinces. Wherever these appeared to fall within the definition of forced or compulsory labour prohibited by the Convention, the Government of India have requested the Local Governments to put a stop to them.

The Convention does not require that forced or compulsory labour *for public purposes* should be suppressed immediately : but Local Governments have been asked to see that, where it cannot be immediately abolished, it is restricted to the narrowest possible limits, abolished as soon as possible, and in the meanwhile regulated as required by the Convention.

Mr. Lalchand Navalrai : May I know from the Honourable Member, what is the definition of forced labour ?

The Honourable Sir Henry Craik : I would refer the Honourable Member to Article 2 of the Convention.

Mr. N. M. Joshi : May I ask whether the Government of India have received any reports from the Local Governments regarding the action taken by them ?

The Honourable Sir Henry Craik : Yes.

Mr. N. M. Joshi : May I ask whether the Government of India would publish the information on this subject sent by Local Governments as well as the action taken by the latter ?

The Honourable Sir Henry Craik : I will consider that. I cannot give a definite undertaking.

Prof. N. G. Ranga : Have Government any idea of the approximate number of people who are subjected to this forced labour ?

The Honourable Sir Henry Craik : That is a very wide question. I could not say off-hand.

Prof. N. G. Ranga : What steps are being taken by the Local Governments as well as by the Central Government to implement this particular convention and see that forced labour is not resorted to by local boards as well as by the various officials of the Local Governments ?

The Honourable Sir Henry Craik : I have already answered that. We have asked Local Governments to put a stop to all forms of forced labour that fall within the definition given in the convention, as soon as possible.

Prof. N. G. Ranga : Are the Government aware of the fact that district boards in Agency parts and also in excluded areas even today resort to forced labour and force the ordinary peasants and workers there to work freely and forcibly ?

The Honourable Sir Henry Craik : The Convention does not require the immediate abolition of forced labour for public purposes. During the transitional period, forced labour is under the Convention allowed for public purposes.

Mr. V. V. Giri : What is meant by public purposes ?

The Honourable Sir Henry Craik : There again, I would ask the Honourable Member to read the Convention.

Mr. Mohan Lal Saksena : How long is the transitional period to last ?

The Honourable Sir Henry Craik : Till some date in 1937.

Prof. N. G. Ranga : Is the Honourable Member aware that the Convention laid stress upon the necessity for paying some wages to these people who are forcibly made to work on public works and that no attempt has till now been made by the various local authorities to make any payment ?

The Honourable Sir Henry Craik : I am not aware of that.

Mr. K. Ahmed : Will any medical man or lawyer be subject to forced labour if they are paid according to the rules of certain institutions and Government as well ?

Mr. Lalchand Navalrai : May I know from the Honourable Member if officials go on tour and use labour for the pitching of tents, is that forced labour or not ?

The Honourable Sir Henry Craik : They are required to pay for that.

HELP TO THE HANDLOOM WEAVERS.

723. *Prof. N. G. Ranga : Will Government be pleased to state :

- (a) if they have received the resolutions passed at the Andhra Provincial Handloom Weavers' Conference held in July ;
- (b) if they are aware of a number of conferences of handloom weavers held in Salem, Chingleput, Tinnevely and other Districts of Tamilnaad ;
- (c) if they are aware of the general demand of the handloom weavers expressed at all those conferences that :
 - (i) since the handloom weavers are suffering from the competition of foreign mill-cloth and Indian mill-cloth, the production of cloth upto 20s. and certain kinds of cloth above 40s. ought to be reserved for the handlooms ;
 - (ii) that suitable steps, including the lowering of the import duty on yarn ought to be taken to bring down the cost of yarn supplied to the handlooms ;
 - (iii) and that the present subvention to the handlooms ought to be increased considerably ; and
- (d) if so, what steps they propose to take to help the handloom weavers ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). Yes, Sir.

(d) The attention of the Honourable Member is invited to the answers given by me to the questions on the subject on the 12th, 13th and 27th February, 1936, and the 6th March, 1936, and to question No. 496 by Mr. Satyamurti in the current Session.

Prof. N. G. Ranga : In view of the fact that the answers refer only to steps that Government have taken in the past, will Government be pleased to state what definite and specific steps they propose to take in the near future to help the handloom weaving industry in regard to their demands contained in (c) ?

The Honourable Sir Muhammad Zafrullah Khan : Detailed statements have already been made on that subject. With regard to (c) (i) there is strong repugnance towards the suggestion on the part of the mill-owners.

Mr. K. Ahmed : Is it not a fact that the product of the handloom work costs much more than the product of the mills and it is no use going in for Khaddar or hand spun cloths for the purpose of consumption because it costs much more ?

The Honourable Sir Muhammad Zafrullah Khan : That may be the experience of the Honourable Member.

Mr. S. Satyamurti : May I know whether Government are considering these two questions, lowering of the import duty on yarn, and the increase of the subvention to handlooms ?

The Honourable Sir Muhammad Zafrullah Khan : No, with regard to (c) (ii). With regard to (iii) my Honourable colleague in charge of the Industries and Labour Department has already explained the position.

Mr. S. Satyamurti : May I know why not with regard to (c) (ii) ?

The Honourable Sir Muhammad Zafrullah Khan : Because Government consider that no case for reduction has yet been made out.

Prof. N. G. Ranga : Will Government try to investigate the extent to which the Indian mill made cloth is competing with the handloom woven cloth, to the disadvantage of the latter ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Prof. N. G. Ranga : Why not, Sir ?

The Honourable Sir Muhammad Zafrullah Khan : I have already replied to all these questions. There is a certain scheme of protection granted to the mills and during the currency of that scheme it is not much use entering upon this investigation ?

Prof. N. G. Ranga : How long is this scheme to continue ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is aware of it as well as myself.

Dr. Ziauddin Ahmad : Government are not contemplating the reduction of duty of yarn. May I ask whether Government is not considering it on account of revenue or whether they think that this thing is not required for the protection of the handloom weavers ?

The Honourable Sir Muhammad Zafrullah Khan : My reply referred to the fact that nothing immediate had been decided upon. As to what final decision will be arrived at on this matter later on on general grounds, I am unable to say.

Pandit Nilakantha Das : Are the Government thinking of any rebate or drawback to the handloom industry ?

The Honourable Sir Muhammad Zafrullah Khan : I submit, Sir, it is not fair to ask me as to what we are thinking of.

Pandit Nilakantha Das : Are they considering this aspect of the question—rebate or drawback.

The Honourable Sir Muhammad Zafrullah Khan : I have already said that no decision has been arrived at. As to what might or might not happen in the future I am unable to say.

EFFECTS OF THE RECOMMENDATIONS OF THE TARIFF BOARD ON THE COTTON TEXTILE INDUSTRY UPON THE HANDLOOM WEAVERS.

724. ***Prof. N. G. Ranga :** Will Government be pleased to state :

(a) if they have examined the direct or indirect effects of the recommendations of the Special Textiles Tariff Board, upon the handloom weavers ;

- (b) if they are aware of the protests made against those recommendations by the Andhra Provincial Handloom Weavers' Conference ; and
- (c) if so, what they propose to do to protect the handloom weavers from the adverse effects of lowering the protective duties, which is recommended by the Special Tariff Board ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes, Sir.

(c). I would refer the Honourable Member to paragraphs 105, 106 and 109 of the Report of the Special Tariff Board, copies of which are in the Library.

Prof. N. G. Ranga : In view of the fact that the Tariff Board of 1931 has recommended against the import duty on yarn, why is it that Government have failed to lower the import duty on yarn at least to help the handloom weavers, especially when they were prepared to lower the import duty in giving effect to the recommendations of the Special Tariff Board ?

The Honourable Sir Muhammad Zafrullah Khan : That is an argument, not a question.

RECOGNITION OF THE ANDHRA PASSENGERS' ASSOCIATION, BEZWADA, BY THE MADRAS AND SOUTHERN MARRATTA RAILWAY.

725. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) if the Andhra Passengers' Association (Bezwada) has applied to the Madras and Southern Mahratta Railway for recognition ;
- (b) whether it is a fact that it has not yet been recognised by the Railway Agent ; and
- (c) if so, whether they are prepared to see that the said Association which has been functioning for the last eight years is recognised soon ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). I am not aware of what the Honourable Member means by the term "recognition". It is obviously open to the Association referred to, as to any other organised body, to make such representations to the Railway Administration as may be considered necessary or desirable.

Prof. N. G. Ranga : Is it not a fact that the various communications of the Andhra Passengers' Association to the Agent of the M. and S. M. Railway were not answered by the Agent and the Agent replied to say that he was not prepared to recognise any communications emanating from that association ?

The Honourable Sir Muhammad Zafrullah Khan : I have no information.

Prof. N. G. Ranga : Is it not a fact that various questions were put in this House during the first Session of this Assembly and Government said that they were trying to get into touch with the Agent of the M. and S. M. Railway and see that necessary steps are taken to recognise this association ?

The Honourable Sir Muhammad Zafrullah Khan : I do not know what the Honourable Member means by recognition of such an association.

Prof. N. G. Ranga : I may inform the Honourable Member that what I mean is that when such an association writes about the complaints of the passengers, the Agent is expected to reply to them, answering the various points raised.

The Honourable Sir Muhammad Zafrullah Khan : That would apply to any representation made by any individual or association. It really depends upon the substance of the representation and not upon the person who makes that representation.

Prof. N. G. Ranga : Is it open to the Agent of the M. and S. M. Railway not to take any notice of any complaints of such a legitimate organisation as the Andhra Passengers' Association ?

The Honourable Sir Muhammad Zafrullah Khan : There is no question of legitimate or illegitimate. It is for the Agent to consider representations that are addressed to him and it is for him to take such action as he may think desirable or feasible.

Mr. Mohan Lal Saksena : Is it the policy of Government not to encourage the formation of such associations ?

The Honourable Sir Muhammad Zafrullah Khan : There is no question of encouragement or discouragement. It is open to all who are interested in these matters to form themselves into associations.

Qazi Muhammad Ahmad Kazmi : Will the Honourable Member enquire from the Agent as to why he does not take any notice of the complaints that are sent to him by this association ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Prof. N. G. Ranga : Will Government inquire whether it is not a fact that the Agent has refused to take any notice of the various complaints made by this organisation during the last six years ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Prof. N. G. Ranga : Why not, Sir ?

The Honourable Sir Muhammad Zafrullah Khan : For the reason that it is for the Agent to decide whether he will or will not take notice of such complaints.

Prof. N. G. Ranga : May I know why the Agent refuses to consider any complaints that may be brought to his notice, with a view to pointing out defects in the railway administration and thus helping them to improve their own efficiency ?

The Honourable Sir Muhammad Zafrullah Khan : When a communication is received, I have no doubt it receives due consideration at the hands of the Agent. It is not incumbent on him to send a detailed reply to every representation that may be made to him.

ADDITIONAL POSTAL FACILITIES PROVIDED FOR RURAL AREAS.

726. *Prof. N. G. Ranga : Will Government be pleased to state :

- (a) what kind of additional postal facilities have been provided for rural areas since January, 1935 and to what extent ;
- (b) how many rural post offices, and post-boxes have been opened in different provinces ; and
- (c) what further facilities are proposed to be offered to rural areas ?

The Honourable Sir Frank Noyce : Information has been called for and a reply will be placed on the table of the House in due course.

Mr. K. Ahmed : Are Government aware, that there are certain post offices in the rural areas where, if a Member of the Legislative Assembly even buys postcards and envelopes and posts his letters, they are not delivered to the addressees ?

The Honourable Sir Frank Noyce : Sir, I am very much obliged to the Honourable Member for his efforts to drive his point home to my simple intelligence, but I am not aware of what he has stated and I hope it is not correct.

Mr. K. Ahmed : Are the Government aware that in these post offices and sub-post offices in the rural areas there is not a single postman appointed ?

The Honourable Sir Frank Noyce : No, Sir, I am not aware of that.

Mr. N. M. Joshi : May I ask whether Government propose to set apart a portion of their rural uplift grant for the purpose of providing additional rural facilities in postal matters ?

The Honourable Sir Frank Noyce : No, Sir. The provision of such facilities is a matter for the Posts and Telegraphs Department.

Prof. N. G. Ranga : What is the answer to part (c) of this question ?

The Honourable Sir Frank Noyce : The answer to part (c) of the question is the same as the answer to parts (a) and (b). The information has been called for and a reply will be placed on the table of the House in due course.

Mr. N. M. Joshi : May I ask why the provision of postal facilities to rural areas is not a part of the rural uplift work ?

The Honourable Sir Frank Noyce : It is a departmental matter. If you once start debiting the cost of additional post offices to the rural uplift grant, there will be hopeless confusion.

Mr. N. M. Joshi : May I ask whether a part of the rural uplift grant is not spent for the provision of radio facilities to villages ?

The Honourable Sir Frank Noyce : That is an entirely different matter. The Posts and Telegraphs Department is a commercial department ; the Broadcasting Department is not.

Mr. Lalchand Navalrai : May I ask the Honourable Member if the Government are aware that in the rural areas in Sind where post offices

are needed and the public want them and yet they are not being opened? If the Honourable Member does not know this, will he kindly make inquiries in the matter?

The Honourable Sir Frank Noyce : I am quite aware of that fact and, as the Honourable Member should be aware, I have devoted rather special attention to the question of Sind from time to time.

Prof. N. G. Ranga : Part (c) of the question relates to what additional facilities do Government propose to offer to rural areas. I want to know whether Government propose to supply more post boxes and arrange for more frequent deliveries of letters in these villages?

The Honourable Sir Frank Noyce : I would suggest to the Honourable Member that he should wait for the comprehensive reply which I propose to give him.

Mr. N. M. Joshi : May I ask whether postal service is not a monopoly of the State, and if it is a monopoly, whether inconvenience is not caused to the public if the monopoly service is not universalised?

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of opinion.

PROPOSED RETRENCHMENT OF RAILWAY STAFF AND THE LOWERING OF WAGES AND SALARIES.

727. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) whether they have asked the representatives of railwaymen to agree to the proposed retrenchment of staff and to the lowering of wages and salaries ;
- (b) if so, what the attitude of the railwaymen's representatives was ;
- (c) whether it is not a fact, (i) that since 1929 more than a lakh of railway workers, drawing less than Rs. 100 per mensem had been retrenched, and (ii) that the higher paid people had been retrenched to a very much smaller extent ; and
- (d) how they propose to seek to justify their proposals to further retrench the lower ranks of the railwaymen and reduce their wages and salaries ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The following subjects in certain of their aspects were discussed between the Railway Board and the All-India Railwaymen's Federation at two meetings held on the 9th April, and 10th July, 1936 :

- (i) Retrenchment of staff on State-managed Railways ;
- (ii) New scales of pay so far as they relate to State-managed Railways.

The results of discussions at these two meetings were summarised and published in Railway Board's communiqués, dated the 9th April, 1936, and 10th July, 1936, respectively, copies of which are in the Library of the House.

(c) (i) and (ii). The total number of staff employed on the principal railways in 1929-30 and 1934-35 respectively was as follows :

1929-30	..	..	..	..	759,966
1934-35	..	..	..	..	646,218

Government have no separate information in respect of staff drawing less than Rs. 100 per mensem and those drawing more than Rs. 100.

(d) I would refer the Honourable Member to the reply given to part (a) of starred question No. 644, asked by Dr. Ziauddin Ahmad on the 28th September, 1936. Government have no proposal for any general lowering of the wages and salaries of staff already in service.

Mr. N. M. Joshi : May I ask whether the Railwaymen's Federation have not asked for an inquiry into the dispute regarding the retrenchment on Indian Railways ?

The Honourable Sir Muhammad Zafrullah Khan : The information is contained in the two communiqués to which I have referred.

Mr. Lalchand Navalrai : May I know if the statement made in clause (c) that the higher paid people have been retrenched to a very much smaller extent is correct or not ?

The Honourable Sir Muhammad Zafrullah Khan : I have said that information is not readily available separately with regard to staff drawing above Rs. 100 and below Rs. 100.

Mr. N. M. Joshi : May I ask whether the Government propose to agree to the request of the All-India Railwaymen's Federation for an inquiry into the dispute regarding retrenchment ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. N. M. Joshi : Why not, Sir ?

The Honourable Sir Muhammad Zafrullah Khan : For the reasons which were given by the Chief Commissioner.

Mr. Lalchand Navalrai : Will the Honourable Member then find out whether it is a fact that the higher paid people have not been retrenched to the proper extent ?

The Honourable Sir Muhammad Zafrullah Khan : I have not the slightest doubt that they have been retrenched to the proper extent.

Mr. K. Ahmed : Is it not a fact that the principle observed in the matter of retrenchment was in accordance with the procedure laid down ? So the number being less amongst people drawing higher salaries were in smaller extent retrenched ? At the same time, following the rules of the Government and the procedure laid down in the matter of retrenchment by which they were perfectly justified in retrenching the officers drawing salaries of less than Rs. 100 and more ?

The Honourable Sir Muhammad Zafrullah Khan : Obviously, Government think that they were justified in laying down the procedure.

Dr. Ziauddin Ahmad : It is not a fact that not a single man drawing a salary of Rs. 500 and more was ever retrenched and the retrenchment in the case of the higher officers always meant shifting from one department to another ?

L346LAD

B2

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question.

RULES FRAMED BY THE GOVERNOR GENERAL IN COUNCIL AND THE LOCAL GOVERNMENTS UNDER SECTION 401 (6) OF THE CODE OF CRIMINAL PROCEDURE.

728. ***Mr. S. Satyamurti :** Will Government be pleased to state whether any rules have been framed by the Governor General in Council under section 401 (6), Criminal Procedure Code, and if so, to lay a copy of the rules on the table ?

The Honourable Sir Henry Craik : The Governor General in Council has not by general rules given directions as to the suspension of sentences. But the Home Department Notification, dated the 19th June, 1933, (a copy of which is in the Library) contains instructions for the submission of petitions (including petitions for suspension of sentences other than death sentences) : and the provincial Jail Manuals contain instructions for the submission of petitions from persons under sentence of death.

Mr. S. Satyamurti : I believe these rules lay down only the procedure with regard to petitions. I want to know whether these rules contemplate any test being laid down for the Governor General in Council in the exercise of his discretion under this question ?

The Honourable Sir Henry Craik : I have said that the Governor General in Council has not by general rules given directions as to the suspension of sentences. The rules which I referred to relate to the submission of petitions for the suspension of sentences.

Mr. S. Satyamurti : Are there any special rules ?

The Honourable Sir Henry Craik : No.

Mr. K. Ahmed : Is the Honourable Member aware that there are rules at the back of the Indian Criminal Procedure Code and any lawyer who happens to have read and passed an examination in the Criminal Procedure Code is familiar with them ?

The Honourable Sir Henry Craik : That question is addressed to my Honourable friend opposite, I think.

Mr. K. Ahmed : Is it not a fact that judicial discretion is exercised in the matter of suspension or remission of sentences under section 401, Criminal Procedure Code ?

Mr. S. Satyamurti : If necessary, I shall answer that question. I am not talking of judicial discretion but of executive discretion. My Honourable friend knows nothing of what he is talking about.

DEMOLITION OF THE SUPERIOR STAFF QUARTERS IN THE DICKY BAZAR IN SAHARANPUR REMOUNT DEPOT.

729. ***Qazi Muhammad Ahmad Kazmi :** Will Government be pleased to state :

- (a) whether it is a fact that the Army Department have decided to demolish the superior staff quarters in the Dicky Bazar, in

Saharanpur Remount Depot ; if so, what the reasons are for this decision ;

- (b) whether it is a fact that the present quarters are held only at a nominal rent by the superior staff ;
- (c) whether it is a fact that new quarters that are proposed to be built for the superior staff will be situated at a distance of about two miles further away from the city and the present quarters ;
- (d) whether it is a fact that the proposed quarters will be rented out to the staff at a high rate of rent ;
- (e) whether it is a fact that the members of the staff have protested against this proposed change as being highly inconvenient to them in all respects ;
- (f) whether it is a fact that no complaints were ever made by members of the staff about these quarters ; if not, what the number of complaints and their nature is ;
- (g) whether it is a fact that the members of the staff have offered to carry out the repairs of the present quarters at their own expense, if they are allowed to retain them ;
- (h) whether they have considered the advisability of allowing the members of the superior staff to retain these present quarters ; if not, why not ; and
- (i) if the answer to part (h) be in the negative, whether they have considered the advisability of making the new quarters for the staff in the Dicky Bazar itself ; if so, with what result ; if not, why not ?

Mr. G. R. F. Tottenham : (a) Yes, they are unhealthy and insanitary and it is no longer economically possible to maintain them in a satisfactory state of repairs.

(b) No.

(c) No.

(d) No.

(e) No.

(f) No. Several complaints have been made regarding the unsatisfactory nature of the buildings.

(g) No.

(h) No, for the reasons given in reply to parts (a) and (f) and as the proposed site is nearer the city than the existing quarters.

(i) For administrative and hygienic reasons, Government have decided that it is not desirable to build the new quarters on the old site.

Qazi Muhammad Ahmad Kazmi : Is it a fact that the European quarters are close to the bazar and are they quite sanitary ?

Mr. G. R. F. Tottenham : The Honourable Member has got another question later on when I shall give him an answer to that question.

Qazi Muhammad Ahmad Kazmi : So far as sanitation is concerned, what is the distance of these quarters from the European quarters which are considered to be satisfactory ?

Mr. G. R. F. Tottenham : I do not know.

Qazi Muhammad Ahmad Kazmi : Are they not close to them ?

Mr. G. R. F. Tottenham : I do not know.

Qazi Muhammad Ahmad Kazmi : Is there no possibility of selecting any other place nearer to the present site than to take away these quarters to a distance of two miles further away from the city and the present quarters ?

Mr. G. R. F. Tottenham : I am afraid I do not know.

Qazi Muhammad Ahmad Kazmi : Has the Honourable Member enquired as to what is the special point about the sanitary condition of the present place ? Is it lower than the adjoining place ?

Mr. G. R. F. Tottenham : I have not enquired. I was not asked to do so.

Qazi Muhammad Ahmad Kazmi : Did the Honourable Member act upon the recommendation communicated to him by the staff about the sanitary condition of the place ?

Mr. G. R. F. Tottenham : I have given an answer to the question put by the Honourable Member and I have no further information beyond what I have already given.

Qazi Muhammad Ahmad Kazmi : Has the Honourable Member enquired about the rent that is now being paid by the superior staff for their quarters.

Mr. G. R. F. Tottenham : I was not asked to.

Qazi Muhammad Ahmad Kazmi : That question was specifically put in part (b) : whether it is a fact that the present quarters are held only at a nominal rent by the superior staff ?

Mr. G. R. F. Tottenham : I have answered, no.

Qazi Muhammad Ahmad Kazmi : What is the rent, I want to know.

Mr. G. R. F. Tottenham : The Honourable Member only asked if the rent is nominal and I have answered, no. If the Honourable Member wanted to know the actual rent, he should have put down a question to that effect.

Qazi Muhammad Ahmad Kazmi : What is the rent which the Honourable Member calls nominal which made him answer, no, to this question ?

Mr. President (The Honourable Sir Abdur Rahim) : It is the Honourable Member in his question who referred to nominal rent. If he wanted to know the actual rent, he should have drafted a specific question to that effect.

Qazi Muhammad Ahmad Kazmi : What would be the rent of the new quarters ?

Mr. G. R. F. Tottenham : I have not been asked to find out.

QUARTERS FOR THE STAFF OF THE SAHARANPUR REMOUNT DEPOT.

730. *Qazi Muhammad Ahmad Kazmi : (a) Will Government be pleased to state whether it is necessary for them to provide superior staff of a Remount Depot with quarters ? If so, under what rules ?

(b) If the answer to part (a) be in the negative, what is the reason for making new quarters for the superior staff in Saharanpur Remount Depot at a distance of two miles from the present quarters and investing a large sum of money in them ?

(c) What is the sum of money spent in the new quarters of the menial staff and what is the estimate of the projected buildings ?

Mr. G. R. F. Tottenham : (a) and (b). Government are not bound to provide quarters for their staff, but they do so if it is economical and increases their efficiency.

(c) The expenditure on the new quarters for the menial staff amounts to about Rs. 42,000. The estimate for the projected buildings is Rs. 10,000.

Qazi Muhammad Ahmad Kazmi : Does the Honourable Member know that the City is closer than the projected quarters that are being built for the superior staff ?

Mr. G. R. F. Tottenham : That does not arise out of this question.

Qazi Muhammad Ahmad Kazmi : The Honourable Member said that there is no obligation for the Government to build quarters for the superior staff, but for the purpose of convenience and efficiency, they may build quarters. My question is that efficiency and convenience can only mean nearness to the City ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member said in his reply, economy and efficiency.

Qazi Muhammad Ahmad Kazmi : Will it be more economical for Government to build these quarters and rent them out for the superior staff ?

Mr. G. R. F. Tottenham : They would not have done it unless they thought it economical and conducive to efficiency.

Qazi Muhammad Ahmad Kazmi : Are they going to save any money or spend more money, or are they going to get any money out of rent ?

Mr. G. R. F. Tottenham : They are going to get rent.

Mr. Mohan Lal Saxena : Have the Government ascertained whether the superior staff is going to occupy these quarters ?

Mr. G. R. F. Tottenham : Yes, Sir, they will occupy them.

Qazi Muhammad Ahmad Kazmi : Will they voluntarily occupy it or will they be forced to occupy it ?

Mr. G. R. F. Tottenham : They will be compelled to live in them.

Qazi Muhammad Ahmad Kazmi : When there is no obligation on the part of the Government to provide quarters, why should they build quarters at a long distance from the City away from all amenities of civilised life and then force the staff to occupy them ?

Mr. President (The Honourable Sir Abdur Rahim) : That is mere argument.

Mr. G. R. F. Tottenham : The Honourable Member seems to think that a certain number of Government officials have a grievance. These officials are perfectly entitled to make representation to the Government through the proper channel. We have received no representations of any kind from official quarters. Our information is that the people there are perfectly contented.

Dr. Ziauddin Ahmad : Is the efficiency of the staff increased by providing quarters at a distance of two miles from the City ?

Mr. G. R. F. Tottenham : Who said they were two miles away ?

Dr. Ziauddin Ahmad : It is in the original question.

Mr. G. R. F. Tottenham : And my answer was—No.

QUARTERS FOR THE STAFF OF THE SAHARANPUR REMOUNT DEPOT.

731. ***Qazi Muhammad Ahmad Kazmi** : (a) Will Government be pleased to state whether it is a fact that the present Dicky Bazar is situated close to the bungalow of the officers of the Remount Depot, Saharanpur, and the European officers have resented the closeness of the Indian habitation to their houses ?

(b) If the answer to part (a) be in the negative, what was the reason for the removal of the quarters of the menial staff from the Dicky Bazar, Remount Depot, Saharanpur to a distance of two miles from the present quarters ?

Mr. G. R. F. Tottenham : (a) No.

(b) I would refer the Honourable Member to the reply I gave to part (a) of his question No. 729.

Qazi Muhammad Ahmad Kazmi : What is the distance, may I know ?

Mr. G. R. F. Tottenham : I do not know.

Qazi Muhammad Ahmad Kazmi : Then how did the Honourable Member answer, no to my part (a) of the question.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is arguing.

CLEARING AWAY OF A MANGO GARDEN FOR THE CONSTRUCTION OF QUARTERS FOR THE MENIAL STAFF OF THE SAHARANPUR REMOUNT DEPOT.

732. ***Qazi Muhammad Ahmad Kazmi** : (a) Will Government be pleased to state whether it is a fact that a mango garden existed at the place to which the quarters of the menial staff of Remount Depot, Saharanpur, have been removed, and to which the quarters of the superior staff are proposed to be removed, and part of that garden has been cleared for those quarters ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state whether the fruit of the garden used to be sold at about Rs. 10,000 per year ? If not, for what sum were they sold ?

(c) If the answer to part (b) be in the affirmative, what were the reasons for clearing away that garden ?

Mr. G. R. F. Tottenham : (a) and (c). The new quarters for the menial staff were constructed on a portion of the garden in which the trees had grown old and unproductive. It is not proposed to locate the quarters of the superior staff within the area of the mango garden.

(b) During the last 43 years, only on one occasion has the produce of this garden fetched Rs. 10,000. The average sale proceeds rarely exceed Rs. 1,000 per annum.

Qazi Muhammad Ahmad Kazmi : When was the garden last sold ?

Mr. G. R. F. Tottenham : I do not know.

Qazi Muhammad Ahmad Kazmi : Is it not a fact that it was sold even last year ?

Mr. G. R. F. Tottenham : If the Honourable Member wanted information on that point, he should have put down a specific question. I have answered the question he has asked and I have no further information.

Qazi Muhammad Ahmad Kazmi : This arises from the answer which the Honourable Member gave that the garden has become unproductive. How did the Honourable Member satisfy himself that the reply which his staff sent him that the garden was unproductive was correct ?

Mr. G. R. F. Tottenham : I have not inspected the trees myself.

Qazi Muhammad Ahmad Kazmi : Did they report to you since when the garden was not sold ?

(No answer.)

Mr. Mohan Lal Saksena : May I know in which year it fetched Rs. 10,000 ?

Mr. G. R. F. Tottenham : I have given my answer and I have no further information on the subject.

DICKY BAZAR IN THE SAHARANPUR REMOUNT DEPOT.

733. ***Qazi Muhammad Ahmad Kazmi :** Will Government be pleased to state :

- (a) whether it is a fact that the Dicky Bazar with its *abadi* in Remount Depot, Saharanpur, has been in existence for about a century ; if not, for what period has it been in existence ;
- (b) if it is a fact that a *pucca* temple and *pucca* mosque existed in the Dicky Bazar ;
- (c) whether Government have considered that the gradual excavation of the Dicky Bazar would lead to the desertion of the temple and the mosque ; if so, what arrangement have they made to stop such desertion ?
- (d) whether Government have considered that the new place to which they are sending the population of the Dicky Bazar shall have to be provided with at least a mosque and a

temple ; if so, what arrangements have Government made for them ; if none, why not ?

Mr. G. R. F. Tottenham : (a) Approximately since 1843.

(b) Yes.

(c) and (d). It will still be possible for persons who wish to do so to use the existing places of worship. No new arrangements are therefore necessary.

WAR BONDS AND CASH CERTIFICATES ISSUED DURING THE GREAT WAR
REMAINING UNPAID.

734. ***Mr. Lalchand Navalrai :** (a) Will Government be pleased to state what is the amount of the war bonds and cash certificates, issued during the time of the Great War, still remaining unpaid by them ?

(b) What is the interest payable thereon up to now ?

(c) How much money of these war bonds and cash certificates have been claimed and paid up, since August 1934 ?

(d) What attempts do Government make to find out the depositors or their heirs ?

(e) With reference to the reply to question No. 402 by Bhai Parma Nand, given on the 6th August, 1934, will Government be pleased to state if it is a fact that they have in their custody copies of war bonds and cash certificates and entries thereof in the postal registers to enable them to answer as to how many war bonds and postal cash certificates have not been cashed, even after the expiry of 12 years, by their purchasers without their renewal ?

(f) Are there any unpaid old war bonds and cash certificates which are not likely to be claimed by the depositors owing to the lapse of long time, or on account of their or their descendants' whereabouts not being known ?

(g) What do Government propose to do with regard to such war bonds and cash certificates ?

(h) Are Government prepared to transfer the amount of these bonds and cash certificates as loans to respective Provincial Governments for nation-building purposes subject to their liability to pay the claimants when called upon ? If not, why not ?

The Honourable Sir James Grigg : (a) and (e). Government have been able to obtain the following figures from their registers :—

War Bonds Rs. 11,73,000,

Cash Certificates Rs. 22,52,000.

(b) The information is not available.

(c) War Bonds Rs. 87,000. Cash Certificates Rs. 40,000.

(d) Payment is only made when a Bond or Certificate is surrendered. As War Bonds are transferable either by endorsement in the case of Promissory Notes or by delivery in the case of Bearer Bonds, Government are unable to find out their present owners. Any action on the part of Government to trace ownership of Cash Certificates would entail considerable

expenditure and would give rise to false claims, litigation and consequent loss to Government.

(f) I am not in a position to say.

(g) The money will be paid to the holders whenever they can establish their claim.

(h) No.

Mr. Lalchand Navalrai : With regard to clause (h), may I know if Government have consulted the Provincial Governments as to the advisability of transferring these loans to them ?

The Honourable Sir James Grigg : No, Sir. I do not think it is a very fruitful object of consultation to ask people if they would like some money if we were prepared to give it to them. The answer to that would be too easy.

Mr. Lalchand Navalrai : Has the Honourable Member even consulted them and got their reasons to come to a mature judgment themselves ?

The Honourable Sir James Grigg : No, Sir, certainly not. There is not the slightest need to consult anybody about their attitude towards a projected transaction of the something for nothing order.

Mr. Mohan Lal Saksena : Will Government publish in the newspapers the numbers of these war bonds and cash certificates for the information of these owners ?

The Honourable Sir James Grigg : I must have notice of that question.

PAYMENT OF FULL VALUE FOR TORN CURRENCY NOTES.

735. ***Qazi Muhammad Ahmad Kazmi :** Will Government be pleased to state :

- (a) whether it is a fact that up to the middle of the year 1932, the Currency Department gave full value for all currency notes which were torn into two peices, and about which the Department was satisfied that they formed part of the same note ;
- (b) whether it is a fact that since the time mentioned in part (a), or thereabout, the Currency Department, Government Treasuries and other Departments have been instructed not to give full value for such currency notes if they are torn through the number of the note, even though the figures of the number be intact and the Department are satisfied that they form part of one and the same note ;
- (c) whether it is a fact that for all such currency notes of the type mentioned in part (b) above, the Department pays only half the value ;
- (d) if the answer to parts (a), (b) and (c) be in the affirmative, whether they have considered the great inconvenience and loss caused to the public by this practice ; and

- (e) whether they have considered the advisability of ordering the Department to revert to the old practice of paying full value for all such torn currency notes about which they are satisfied that they are parts of the same note and make any changes in the rules if necessary ? If not, why not ?

The Honourable Sir James Grigg : I would invite the attention of the Honourable Member to the replies to Pandit Satyendra Nath Sen's starred question No. 839 on the 21st March, 1933, and to Mr. Sri Prakasa's starred question No. 238 during the current Session.

IMPOSITION OF IMPORT DUTY ON RAILWAY STORES AND LOCOMOTIVES.

736. ***Mr. S. Satyamurti :** Will Government please state what import duty is imposed on railway stores in general and railway locomotives in particular ?

The Honourable Sir James Grigg : I would refer the Honourable Member to the First Schedule to the Indian Tariff Act, 1934, a copy of which is in the Library.

IMPORT DUTY ON MOTOR VEHICLES.

737. ***Mr. S. Satyamurti :** Will Government please state why the import duty on motor vehicles is heavier than on railway locomotives ?

The Honourable Sir James Grigg : Railway locomotives, like industrial machinery, with which they are classified in the Import Tariff, have always enjoyed a specially low rate of duty in the interests of the industrial development of the country. The rate of duty on motor vehicles has been dictated purely by revenue considerations.

Mr. S. Satyamurti : Since the railway industry is not paying, may I know whether Government will reconsider the question of having lower duties on railway locomotives in order to promote that industry ?

The Honourable Sir James Grigg : I have considered that from time to time but there again revenue considerations have to be borne in mind, though in the case of railway locomotives they are not quite so dominant as in the case of motor vehicles.

Prof. N. G. Ranga : Is this import duty on motor vehicles levied in proportion to the cost of the motor vehicles ?

The Honourable Sir James Grigg : It is on an *ad valorem* basis. There is no specific duty, to the best of my recollection, on motor vehicles.

PAYMENT OF LAND TAX BY RAILWAY COMPANIES.

738. ***Mr. S. Satyamurti :** Will Government please state whether the Railway Companies pay land tax on all land over which their permanent-way runs ?

The Honourable Sir Muhammad Zafrullah Khan : It is presumed that the Honourable Member is referring to the assessment of land revenue. If so, he is referred to the notes below rule 9 in Appendix L to the Revised Rules relating to the Acquisition of Land for Railway Purposes, 1918, a copy of which is in the Library of the House.

Mr. S. Satyamurti : Will the Honourable Member kindly tell me whether they do pay land tax or not ? He can say yes or no.

The Honourable Sir Muhammad Zafrullah Khan : No, Sir, it cannot be answered as yes or no. Different considerations apply to different kinds of land. If land is acquired from private people and is of a category which was already assessed to land revenue, certain considerations apply. If it is acquired from a Local Government or other authority and was not assessed to land revenue when it was acquired, other considerations apply. The Honourable Member will therefore see that the question is not capable of being replied to as yes or no.

PAYMENT OF PROPERTY TAX TO DISTRICT BOARDS AND MUNICIPALITIES BY RAILWAY COMPANIES.

739. ***Mr. S. Satyamurti :** Will Government please state whether the Railway Companies are paying any property tax to the various District Boards and Municipalities on their permanent-way outside the actual railway station limits ?

The Honourable Sir Muhammad Zafrullah Khan : The payment of local taxation by Railways is governed by section 135 of the Indian Railways Act, 1890 (IX of 1890) and each case is considered on its merits.

RESTRICTION OF THE NUMBER OF AIRCRAFTS OPERATING BETWEEN VARIOUS CENTRES IN INDIA.

740. ***Mr. S. Satyamurti :** Will Government please state whether there will be any proposals before the House at present to restrict the number of aircrafts operating between various centres in India in view of the possibility of aircrafts becoming in future a serious competitor to all other forms of transport ? If not, why not ?

The Honourable Sir Frank Noyce : No. In view of the high cost involved, there is very little likelihood of air-transport becoming a serious competitor to other forms of transport. The Government of India see no necessity for restrictions on aircraft operation in India other than those dictated in the interests of safety.

Mr. S. Satyamurti : Why are these serious calamities happening to the Imperial Airways ?

The Honourable Sir Frank Noyce : I expect they would like to know themselves, Sir.

OBSOLETE RAILWAY STORES, STOCK, PLANT AND MACHINERY, ETC.

741. ***Mr. S. Satyamurti :** (a) Will Government please state whether they have taken the necessary steps to see that all obsolete railway stores, stock, plant and machinery, as certified by an independent authority, are written off before they take over any Railways ?

(b) Will Government please state whether steps have been taken by them to see that all railway buildings have been depreciated by an independent authority to present day values and are in a perfect state of repair before being taken over from any railway ?

(c) Will Government please state whether the items of depreciation and obsolescence mentioned in parts (a) and (b) will be written off from the amount which would be paid by the Government of India to the Railway Companies whose shares they are acquiring ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes. In the past when the management of State-owned lines (such as East Indian, Great Indian Peninsula and Burma Railways) was taken over by Government, an investigation by special officers was made in order to see whether any adjustment in accounts was necessary on account of undue accumulation of surplus and obsolete stocks, etc.

(b) As the Honourable Member is aware, a Depreciation Fund is maintained for all State-owned Railways. The relevant contracts do not permit these rules being applied to Company-managed Railways.

(c) The amounts payable on purchase are fixed by the relevant contracts ; but any adjustments permitted by the contracts will be made when a final settlement is arrived at.

Mr. S. Satyamurti : With reference to clause (b), may I take it that there is no depreciation on railway buildings with regard to the Company-managed Railways ?

The Honourable Sir Muhammad Zafrullah Khan : The rules with regard to depreciation fund which apply to State Railways do not apply to Company-managed Railways. As to what the exact rules are, I must ask for notice.

Mr. S. Satyamurti : With reference to clause (c), may I know exactly what will be the difference between actual depreciation and the depreciation which Government can take account of under the rules ?

The Honourable Sir Muhammad Zafrullah Khan : I did not say the rules. I said the terms of the contracts.

Mr. S. Satyamurti : I am sorry. May I know whether Government have any information as to the difference between actual depreciation in the case of these railways and the depreciation which they are entitled to take account of according to the terms of the contracts ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I could not say without notice.

IMPORT AND EXCISE DUTIES ON COAL USED BY RAILWAYS.

742. ***Mr. S. Satyamurti :** (a) Will Government please state what is the import duty on coal used by the railways ?

(b) Will Government please state what is the excise duty on coal mines in this country and used by the railways ?

(c) Will Government please state why they impose such a heavy import duty on petrol in view of the very low import duty and the absence of excise duty on coal ?

The Honourable Sir James Grigg : (a) The rate of duty on coal (for whatever purpose intended) is 10 annas per ton.

(b) Coal is not subject to an excise duty.

(c) Coal is the fuel employed in industries, railways and certain other enterprises. The duty has been kept low in order not to impose too heavy a burden on the industries of the country and public utility concerns. These considerations are not applicable in anything like the same degree to petrol, the duty on which has been fixed with reference to the necessities of the revenue.

Mr. B. Das : Is the Honourable Member aware that the coal industry is suffering very serious handicaps and cannot stand any excise duty ?

The Honourable Sir James Grigg : The Honourable Member has not apparently heard me properly. I said there is no excise duty.

NOTICES SENT OUT BY INCOME-TAX OFFICERS TO INCOME-TAX PAYERS
TO SEND IN THEIR RETURNS.

743. ***Mr. Sri Prakasa :** (a) Is it a fact that on the very first day of a new financial year the Income-tax Officers send out notices to all income-tax payers to send in their returns within the next few weeks ?

(b) Is it not a fact that practically all income-tax payers ask for extension of time in view of their inability to close up their preceding year's accounts within such a short time, and that such extension is invariably given ?

(c) Are Government prepared to ask Income-tax Officers to send notices to different income-tax payers for sending the return of their incomes, about the time particular individuals usually do every year, as inferable from their records of previous years ?

The Honourable Sir James Grigg : (a) The notices are issued as convenient to the department on or after the 1st April each year. Under section 22 (2) of the Indian Income-tax Act, 1922, the notice must allow a period of not less than 30 days for the furnishing of the returns.

(b) No.

(c) The Government see no reason to issue such instructions.

Mr. Sri Prakasa : With reference to part (c), what harm is there if such instructions are issued, in view of the fact that they would save trouble to the income-tax officers as well as harassment to the income-tax payers ?

The Honourable Sir James Grigg : By law the returns have to be issued very shortly after the beginning of the financial year ; and obviously to issue instructions to allow the convenience of income-tax payers to be unlimited is simply to invite delay in the furnishing of the returns, and the revenues of the country cannot stand that.

Mr. Sri Prakasa : In view of the fact that notices are sent out within a week of the beginning of the financial year and in view also of the fact that it is not possible for merchants and others who pay income-tax to prepare their accounts within such a short time, will Government consider the desirability of extending this time ?

The Honourable Sir James Grigg : I assume the Honourable Member has in mind particularly the United Provinces—I gather that the custom

does vary from province to province. Do I understand from the Honourable Member that in the case of companies which have audited accounts it is impossible to produce them within 30 days of the 1st April ?

Mr. Sri Prakasa : I am talking of private individuals like myself.

The Honourable Sir James Grigg : Frankly speaking, I do not think that a private individual who is not dependent on audited accounts can complain if he is given 30 days to make up his accounts ; 30 days is the period allowed by law.

SHORT NOTICE QUESTION AND ANSWER.

DUTY ON THE IMPORTS OF ADEN SALT INTO INDIA AFTER SEPARATION.

Mr. Husenbhai Abdullabhai Laljee : Will Government be pleased to state what will be the duty payable on Aden salt on importation into ports in British India after the separation of Aden ?

The Honourable Sir James Grigg : In the ordinary course, Aden salt would, on separation, cease to be entitled to the benefits enjoyed by Indian salt under the Salt Additional Import Duty Act ; but the Government of India propose, in the special circumstances of the case, to secure that Aden shall retain these benefits during the remaining period of the life of the Act as at present extended, that is, till the end of April, 1935. This will be effected under the powers conferred on the Governor General in Council by section 23 of the Sea Customs Act.

Prof. N. G. Ranga : Are Government aware of the fact that salt licencees in various parts of Southern India have demanded that an import duty should be levied upon the salt imports from Aden ?

The Honourable Sir James Grigg : Yes, Sir : I am aware of that and I am aware of every other consideration in connection with salt.

Mr. B. Das : Are Government prepared to allow Indian firms in Aden manufacturing salt to continue to receive the same privileges regarding salt protection as the industry in India ?

The Honourable Sir James Grigg : If the Honourable Member had listened to my answer that is precisely what I said would happen.

Mr. B. Das : May I inquire whether if subsequently the Salt Act is extended, the Indian firms and not the Italian firms in Aden will get the same facilities as Indian manufacturers in India ?

The Honourable Sir James Grigg : The Honourable Member had better wait and see if it is extended.

Prof. N. G. Ranga : Is it not a fact that the production of salt in India is to some extent restricted in order to facilitate the imports of salt from Aden ?

The Honourable Sir James Grigg : I think the Honourable Member had better have his argument with the Honourable Member below him and when they have settled each other's hash, I would like to know what the result is.

MOTION FOR ADJOURNMENT.

GOVERNMENT'S CURRENCY POLICY.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of a motion for adjournment of the House from Qazi Muhammad Ahmad Kazmi to the following effect :

“ I want to move the following adjournment motion today :

That the House do adjourn to discuss the following definite matter of urgent public importance, *viz.*, the failure of the Government of India to review their currency policy and keeping an appreciated value of the rupee in spite of the world-wide depreciation of the currencies, chiefly brought about by the decisions of the European States.”

Is there any objection to it ?

The Honourable Sir James Grigg (Finance Member) : Yes, Sir : I object to this motion on the ground that it is barred. The only new factor in the currency situation has been the decision of France and reported decisions on the part of Switzerland and Holland to devalue. The currency policy of the Government of India has been unchanged for years and there has been no new factor about that. The only definite decision in the matter of devaluation is to the best of my knowledge that of France. That was announced in the papers of Sunday. In the case of Switzerland there are certainly reported decisions : in the case of Holland there are rumours of decisions : but, as I said just now, to the best of my belief, there have been no actual definitive decisions of either of those countries, but if they have the news of them appeared in the papers on Monday. This is Wednesday : in the case of France the Honourable Member missed the opportunity of Monday and Tuesday (*Honourable Members* : ‘ Oh ’) and in the case of Switzerland and Holland, if it arises at all, he missed the opportunity of Tuesday. So that, I maintain that the motion is barred. But quite apart from.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member means it is not urgent ?

The Honourable Sir James Grigg : It is no longer urgent, Sir. But, in addition, there is a definite misstatement in the notice of motion. It says “ in view of the world-wide depreciation of the currencies chiefly brought about by the decisions of the European States ”. As I said just now, the only definitive new decision is that of France : there are projected or reported decisions on the part of Switzerland and Holland. Now, a decision of the gold bloc does not constitute a world-wide decision, so there is that inaccuracy of fact. There is another inaccuracy of fact too, which I think is more important ; and that is this : the Government of India have reviewed their currency policy and they have decided, in accordance with the spirit of the tripartite declaration by France, Great Britain and the United States, that they will in no way lend themselves to a competitive depreciation of currencies ; and that means quite definitely that we propose to maintain the present sterling parity of the rupee. Any other decision would, in our view.....

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : This is arguing the case, Sir, without giving an answer to the point whether objection is taken.

Mr. President (The Honourable Sir Abdur Rahim) : It is arguing the case.

(2097)

The Honourable Sir James Grigg : I have got one more sentence to say, because this is a very important matter. Any other decision would be contrary to India's interests.....

Mr. S. Satyamurti : He cannot say that.....

The Honourable Sir James Grigg : And it would be contrary to the interests of international recovery at a time when there is greater hope of international co-operation in currency matters than at any time for the last five years.....

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Are these remarks in order ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot say that the Honourable Member is not in order, but he is really speaking on the merits of the motion.

Pandit Govind Ballabh Pant : I suggest that he could say all that when the motion is discussed.

Mr. President (The Honourable Sir Abdur Rahim) : What I mean is that he is objecting to the motion as Member of the Government in charge : and he has to state as Finance Member whether he decides whether he would agree to the motion or not.

Pandit Govind Ballabh Pant : I would suggest to the Government as this is a very important matter, they should give us a day for the consideration of this motion. In that case this will be withdrawn.

The Honourable Sir James Grigg : That is another matter.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Sir, so far as delay is concerned, I may submit that the Honourable the Finance Member himself admits it is a very important matter, but he wants to stick to his policy. Matters relating to currency and exchange are not such that an opinion can be formed in one single day. As the Honourable Member says, we got the news on Monday ; and we have got to see whether the news created any repercussions in the markets of the world or not. If there happened to be no such effect, there is no question of moving an adjournment motion.

Mr. President (The Honourable Sir Abdur Rahim) : I hold that the motion is in order. Those Members who are for leave being granted will rise in their seats.

(More than twenty-five Members having risen.)

Mr. President (The Honourable Sir Abdur Rahim) : As more than 25 Members have risen, the motion will be taken up at 4 o'clock.

Honourable Members ought not to carry on conversation loudly in the House : it is very difficult for the Chair to make itself heard.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee.¹⁷

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, after the words ‘ remove a managing agent ’ the words ‘ for fraud or breach of trust or gross negligence or mismanagement, or ’ be inserted.”

I suggest, Sir, that the word ‘ or ’ should be added after the word ‘ mismanagement ’, and then the clause will run as follows :

“ A company by resolution passed at a general meeting, of which notice has been given to the managing agent, in the same manner as to members of the company, remove a managing agent for fraud, or breach of trust, or gross negligence or mismanagement, or if he is convicted of an offence in relation to the affairs of a company ”,

and so on.

Sir, under the clause as it found place in the original Bill, fraud and breach of trust were included, and it was provided in the original Bill, at page 15, clause 87-B (a) as it then stood, that a managing agent may be removed not only in the case of a conviction, but also for fraud or breach of trust. In the original report of Mr. Sen, it was proposed that fraud, gross negligence, breach of trust or breach of duty should also justify the removal of the managing agent. The other day while speaking on the subject, the Honourable the Law Member made the following remarks :

“ Now, Sir, Mr. Avinashilingam Chettiar made a suggestion which, I venture to submit, required serious consideration. The House will remember that he made certain criticisms into which I need not go in great detail. I refer to the section which relates to the removal of a director after conviction in court..... I find that under the law the managing agent is liable to be removed for pecuniary misconduct, whether it is a case of embezzlement or theft or cheating or misappropriation or fraud. He is equally removable in case of negligence in business or conduct calculated to injure the employer's business. He is also removable for incompetence or permanent disability.”

This is what the Honourable the Law Member said on the 10th of September last.

The amendment I am proposing now does not cover as wide a ground as the Honourable the Law Member, but I think it is necessary to provide that gross negligence or mismanagement or fraud should be available as adequate grounds to a company if it chooses to remove a managing agent. The removal of a managing agent will be made by the company only when the company is satisfied that the offence or breach is of such a character that the man should be removed, and not otherwise. I think, Sir, the amendment is quite simple and plain, and I need not take more time in placing it before the House for its acceptance.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, after the words ‘ remove a managing agent ’ the words ‘ for fraud or breach of trust or gross negligence or mismanagement, or ’ be inserted.”

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I am opposing this amendment, not in the interests of the managing agents, but in the interests of the shareholders, for this reason. As my friend was good enough to read my speech, I had in mind Smith's Master and Servant, where we have got the different heads for which a servant can

L346LAD

c2

[Sir Nripendra Sircar.]

be dismissed. My friend has picked out four of them, namely fraud, gross negligence, breach of trust and mismanagement. Now, Sir, the result of that will be as if the other grounds are not open to the shareholders for his removal. We are gaining nothing, but we are losing something from the point of view of the shareholders who can dismiss him. For instance, the House will find that for incompetence a servant can be dismissed. That is not one of the grounds mentioned here ; but what is gained by putting in four grounds on which under the general law a servant can be dismissed by the master and omitting something ? I submit, Sir, if the general law is left untouched, it is much more favourable to the masters, namely the shareholders than this amendment. Sir, I oppose this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, after the words ‘ remove a managing agent ’ the words ‘ for fraud or breach of trust or gross negligence or mismanagement, or ’ be inserted.”

The motion was negatived.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadian Rural) : Sir, I move :

“ That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, for the words ‘ if he is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ’ the words ‘ if he is convicted of an offence involving moral turpitude ’ be substituted.”

Sir, there is no sense in saying that if a man is found dishonest in relation to the management of his company or if he is found to be a man of dishonest character in relation to a company, he is not to be trusted. What I submit is, a man cannot be honest and dishonest compartmentally. If a man is dishonest, he will be dishonest in regard to all matters. Simply because he does not deal honestly in regard to a certain affair, he cannot always be called dishonest ; it may be an accident that he does not deal honestly in regard to his company. I submit that the Honourable the Law Member would please see his way to accept this amendment, that is, if a man is convicted of an offence involving moral turpitude.....

The Honourable Sir Nripendra Sircar : What is moral turpitude ?

Mr. Suryya Kumar Som : Moral turpitude is a word which has by this time acquired a very common significance ; just as if you say an Arya Samajist, he may be Hindu, a Christian or anybody, it is very difficult to define it exactly. But everybody understands it.

The Honourable Sir Nripendra Sircar : What are the sections of the Penal Code you have in mind ?

Mr. Suryya Kumar Som : Cheating, theft, criminal misappropriation, breach of trust and other things.

The Honourable Sir Nripendra Sircar : What about 376 ?

Mr. Suryya Kumar Som : Rape ?

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadian Rural) : Is negligence moral turpitude ?

Mr. Suryya Kumar Som : No. Moreover, it is an enabling section ; it is not a mandatory section. It is not a command that a man, if found to be so and so, should be removed. It is only an enabling section and it will be for the company to consider to what extent they will go. My point is that in extreme cases which lie on the border line between dishonesty and irregularity this action may not be taken by the shareholders. In the Bill as introduced by the Leader of the House, there was no such thing as any offence of fraud in relation to the company, nor do we find any reference to it in Mr. Sen's report, and it was only during the discussion in the Select Committee that this change has been introduced. I hope the Leader of the House will accept my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved

" That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, for the words ' if he is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ' the words ' if he is convicted of an offence involving moral turpitude ' be substituted."

The Honourable Sir Nripendra Sircar : I oppose this amendment. This will be thoroughly unworkable. Ideas about morals change from man to man and from hour to hour, and I do not know what is meant by moral turpitude. It is quite easy to imagine that a managing agent who runs away with another man's wife is the best business man who is available in the market. (Laughter.)

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhamadan Rural) : Does my Honourable friend, Sir Homi Mody, accept that ? (Laughter.)

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

" That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, for the words ' if he is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ' the words ' if he is convicted of an offence involving moral turpitude ' be substituted."

The motion was negatived.

Dr. Ziauddin Ahmad : Sir, I move :

" That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, the words ' and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ' be omitted."

I set an example. I move the amendment without a speech.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

" That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, the words ' and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ' be omitted."

The Honourable Sir Nripendra Sircar : I oppose it without a speech. (Laughter.)

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (a) of the proposed section 87B, the words ‘ and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ’ be omitted.”

The motion was negatived.

Mr. L. C. Buss (Nominated Non-Official) : Sir, I move :

“ That in clause 42 of the Bill, to sub-section (a) of the proposed section 87B, the following proviso be added :

‘ Provided that a Managing Agent shall not be liable to be removed under the provisions hereof if the offending partner, director or officer as aforesaid shall be expelled or dismissed by the Managing Agent within 30 days from the date of his conviction or if his conviction shall be set aside on appeal ’.”

Sub-section (a) of section 97-B provides for the removal of a managing agent on conviction for an offence in relation to the affairs of the company. It goes on to say that an offence committed by any member or director of the managing agent's firm or company or any officer shall be regarded as the offence of the managing agent. The amendment moved is intended to protect the managing agent from such a serious penalty as the loss of the managing agency on account of some act of an individual who is his partner or co-director or employee provided the person actually implicated is removed from his position, or provided he is acquitted of the alleged offence on appeal. That, Sir, I think is an entirely reasonable suggestion. If the managing agent takes immediate steps to get rid of the wrong doer I can see no reason why the managing agency should be forfeited. Equally if an appeal against his conviction resulted in its being set aside, it would, I consider, be most improper for the penalty provided in this section to come into effect. It must be emphasised that section 87-B does not in any sense affect or impair the right of the company to obtain compensation from the managing agent as a result of the commission of an offence under the section. That is an entirely separate matter, and all that the section does is to impose an additional and specific penalty in such cases. The managing agent in any case remains responsible for the actions of his associates, and all that the amendment seeks to do is to prevent the imposition of the specific penalty in a harsh and unconscionable manner. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, to sub-section (a) of the proposed section 87B, the following proviso be added :

‘ Provided that a Managing Agent shall not be liable to be removed under the provisions hereof if the offending partner, director or officer as aforesaid shall be expelled or dismissed by the Managing Agent within 30 days from the date of his conviction or if his conviction shall be set aside on appeal ’.”

The Honourable Sir Nripendra Sircar : Sir, I would like to point out that there are a few drafting inaccuracies in this way. In the third line of the proviso where it is said, “ or officer as aforesaid shall be expelled or dismissed by the ”, I suggest that the words “ shall be ” ought to be changed to “ is ”, so that it will read like this, “ or officer as

aforsaid is expelled or dismissed by the ". Again, in the last line we have the words " or if his conviction shall be set aside on appeal ". I suggest that the word " is " be substituted for the words " shall be ". I have a further suggestion to make, that, although " partner " and " member " may mean the same thing, throughout the Bill we have used the word " member " and it is much better to use the same word instead of the word " partner ". I would suggest therefore that in the second line of the proviso, the word " partner " should be changed into " member ". Subject to these changes, I accept the amendment.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : There is one point. What is to happen in the interval before the conviction is set aside ? These appeals may take a long time. It seems to me there is a lacuna in this amendment. I am not against the spirit of the amendment. When the offending member goes out, there is no point in punishing the managing agents. It seems to me, apart from the period of limitation provided in the Code of Criminal Procedure for appeals, there are inevitable delays in the disposal of appeals. It may take six months, or it may take one year. The appeal may even go to the Judicial Committee of the Privy Council.

An Honourable Member : There may be a revision petition to the High Court.

Mr. S. Satyamurti : It seems to me that, unless this amendment is drafted in such a manner as to provide that once the conviction is there the man is removed, although he may have a right to come back if the conviction is set aside on appeal, you will be letting in a number of months which may be anything more than a year or less than a year. A man who is convicted and about whose guilt there is no definite opinion until the appellate court has finally disposed of it—What is to happen to him ? This seems to me to be a lacuna which should be looked into. Otherwise, it will mean, that taking advantage of the time which inevitably is involved in the disposal of an appeal, criminals who may be ultimately convicted may continue to be in managing functions, which I think the Law Member does not want.

The Honourable Sir Nripendra Sircar : What strikes me is this. After all he does not automatically go out on his conviction. The shareholders have got to call a meeting and I was presuming that where an appeal has been filed the shareholders will possibly not wish to proceed to pass a resolution until the result of the appeal is known. I am under the impression that not much difficulty will be created but I have not heard any concrete suggestion from my Honourable friend as to how he wants the amendment to be changed. I quite see the force of his point. I would ask him to think over this matter. When an appeal has been filed, is it likely that the shareholders will dismiss him before the appeal has been disposed of ?

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Until the appeal is disposed of, the conviction is suspended.

The Honourable Sir Nripendra Sircar : I think there will be no practical difficulty.

Sardar Sant Singh (West Punjab : Sikh) : May I know if by conviction the Law Member means the conviction by the trial court or the

[Sardar Sant Singh.]

ultimate conviction. Suppose the appeal is dismissed and the man is let off by the High Court. I think conviction means ultimate conviction. I think the wording will have to be changed in view of the fact that conviction means ultimate conviction.

The Honourable Sir Nripendra Sircar : As all parties are agreed about the substance of the amendment, I would suggest that this amendment be held over till Half Past Two.

(The amendment was held over.)

Mr. G. E. J. Robertson (Burma : European) : I would ask for your permission that amendment No. 59 be held over for some time. It has been found out that the wording does not properly give effect to the intention of the amendment. I think it will be possible to re-arrange the wording, so as to make it acceptable to all sections of the House.

Mr. President (The Honourable Sir Abdur Rahim) : What is wrong with it ? If the amendments are purely verbal, the wording could be corrected. If it is a change of substance, it is a different matter.

Mr. G. E. J. Robertson : It is an alteration of substance and it cannot be done on the spot. It will take a little bit of time and I suggest that this amendment be held over in the meantime.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can re-draft it and circulate it at once. But if it is finished, I may not be able to take it up later.

Pandit Govind Ballabh Pant : There is an amendment in my name, No. 138, which relates to the removal of the managing agent.

Mr. President (The Honourable Sir Abdur Rahim) : Does it relate to the same clause ?

Pandit Govind Ballabh Pant : It relates to the same subject. I want to know whether I can move it now or at a later stage. It relates to the subject matter of 87B.

Mr. President (The Honourable Sir Abdur Rahim) : I do not think I can really give any undertaking. If some amendment relating to a previous clause is carried, this may be barred. It is really for the House to decide.

Pandit Govind Ballabh Pant : My remarks are subject to that, Sir, I move.

“ That in clause 42 of the Bill, in sub-section (d) of the proposed section 87B, the words ‘ Where the Court finds that the winding up is due to the negligence or default of the Managing Agent himself ’ be omitted.”

If these words are omitted, then the clause will run thus :

“ if a company is wound up either by the Court or voluntarily, any contract of management made with a managing agent shall be thereupon determined without prejudice, however, to the right of the managing agent to recover any moneys recoverable by the managing agent from the company ; Provided that the managing agent shall not be entitled to receive any compensation for the premature termination of his contract of management.”

The clause as it stands reserves the right, for the benefit of the managing agent, to claim compensation even where a company goes into liquidation. My submission is that where a company goes into liquidation, the managing agent should not be entitled to any compensation whatsoever. As I stated in the course of my remarks at an earlier stage, a company can go into liquidation only either because of some negligence or default on the part of the managing agent or because of his incompetence or inefficiency or because in very rare cases of some unavoidable misfortune which he could not overcome because of world factors or otherwise. It was suggested that there may be cases where a person corners the shares and thus brings about a sort of artificial liquidation though the company, left to itself, would be able to manage the affairs efficiently and to the advantage of the shareholders. That was the only reason advanced in the course of the debate at an earlier stage as to why my proposal should not be accepted. Now, I may remind the Honourable Members that a company cannot go into liquidation voluntarily except and otherwise than through a special resolution or an extraordinary resolution passed by the company, so there must be almost virtual unanimity among the shareholders before liquidation. In the circumstances, there is not the least chance of a company going into liquidation simply maliciously with a view to injure the interests of the managing agent. I am not aware of any case in which any company has so far gone into liquidation in order to get rid of a managing agent.

The Honourable Sir Nripendra Sircar : They will if your amendment is carried.

Pandit Govind Ballabh Pant : I think the Honourable the Law Member is aware and I may inform him if he is not that in Calcutta most of the companies have not got any clause whatsoever by virtue of which the managing agents possess the right of compensation if the company went into liquidation.

The Honourable Sir Nripendra Sircar : No clause is wanted ; that is under the general law.

Pandit Govind Ballabh Pant : Then, I am not aware of any case in which any compensation has been claimed by any agent and I am not prepared to believe that it was because of the knowledge of the general law that people did not take any such step and did not resort to any such manoeuvres. Such cases will, if at all, be very rare, while the cases in which the shareholders will be called upon to pay out of their pockets in order to enable the company to meet the managing agent's claim for compensation will be many more. What will be the result if this clause is retained in its present shape ? Let us assume that a company has made calls to the extent of 25 per cent. on the shares, so that the shareholders have yet to pay 75 per cent. more on the shares held by them. Now, such a company, because of the incompetence of the management and of the managing agent, which is not covered whether by default or by negligence, goes into liquidation, and the managing agent under the terms of his contract claims commission for 10 years on the ground that under the agreement he is entitled to such compensation in case of liquidation of the company. Now, the shareholders may be required to pay the 75 per cent. balance of their shares and fresh calls may be made upon them so that the managing agent may get com-

[Pandit Govind Ballabh Pant.]

pensation. It is unthinkable that any arrangement like this should be accepted by anybody in this House.

Now, assume for a moment that a person corners the shares, how can he do that ? The managing agent can manipulate the value of the shares in a much more effective manner than any other person. If he sees that other people are going to purchase the shares and he himself does not want them to purchase them, he can easily manage to raise the value of the shares. I will not read from Lokanathan's book, the Old Testament, I assume that the Honourable the Law Member has read relevant passages therein relating to the manipulation of the shares by the managing agents. If a person does corner the shares, then what does he do ? He has to pay a value much above the average and the normal in order to acquire the shares with the result that the shareholders as well as the managing agent realise more than full value for their holdings in the company. So, even if such an unusual case did actually happen, the managing agent would not suffer. I ask the House to consider whether in most cases the failure of the company is not attributable to the managing agent himself. If the company thrives and prospers, it is the managing agent who has the lion's share of the profit, and if the company goes into liquidation, then it is the managing agent who, again, will have the lion's share of the capital held by the shareholders. It is the same old story of the heads I win and tails you lose. The shareholder must feed the managing agent both ways. If the company runs, he will have his guaranteed profit ; if the company comes to a standstill, he must have his compensation ! What I want the House to consider is this : whether the shareholder is more to blame in the case of the failure of a company than the managing agent, for, after all, whatever is paid to the managing agent, is taken away from the shareholder. Whether you pay him out of the capital money or the investment or the holdings or the undertakings of the company or whether you make fresh calls on the shareholders, in every case it is paid out of the assets belonging to the shareholders. If you want to pay the managing agent, then you have to take it from the shareholder. The proposition, as it obtains in the Bill, is of a very far-reaching character. It makes the company liable to pay compensation whatever may be the reason for the failure except the default or negligence of the managing agent, and how difficult it is even to establish as to what amounts to negligence or to default. Therefore, I submit that in cases of liquidation of the company the managing agents should not be entitled to any compensation. I will seek the permission of the Honourable the Law Member to place before him another case which may not have struck him but which is worthy of consideration. He has thought of that hard case which is a very rare one—and hard cases never make a good law—where a person in order to spite a managing agent conspires with and misleads the entire company and almost everyone of the shareholders in order to secure the liquidation of the company. That seems to me almost inconceivable. But is it not still more likely that the managing agent, when he finds that it is more to his advantage to have compensation rather than run the business, may manipulate the affairs in such a way that the company is driven to liquidation. And as a result he has his pound of flesh by way of compensation ! So these hard cases have to be left out. Normally you must

accept the principle that the managing agent is to blame and even if—as is but rare—it is a case of misfortune, he must share the loss with the shareholders and not add to their misfortune by claiming compensation for himself when the company goes into liquidation. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (d) of the proposed section 87B, the words ‘ Where the Court finds that the winding up is due to the negligence or default of the Managing Agent himself ’ be omitted.”

The Honourable Sir Nripendra Sircar : Sir, the amendment proposed by my Honourable friend, Pandit Govind Ballabh Pant, is of a sweeping character and extremely unreasonable for these reasons. Apparently judging by his speech, my Honourable friend is under the impression that whenever there is liquidation that means the company has come to grief and is unable to meet its demands and so on. I would ask my Honourable friend to consider other cases which have actually occurred. A company if it wants reconstruction or if it wants amalgamation, the first step is voluntary liquidation. Is it suggested that where this liquidation is meant for the benefit of the company, for its expansion, that the managing agent should lose what he is entitled to under the law? Why, for what reason? Then, Sir, under the general law—my Honourable friend was talking about clauses in the managing agency agreement—supposing there is nothing in the managing agency agreement that he will be entitled to compensation. I am reading from *Smith, Master and servant*, page 136, “ in the case of a limited company, the winding up order is a notice of discharge to the servants employed by the company ”. What is the result that follows. As soon as there is winding up order, every servant is wrongfully dismissed, the mistry who has been engaged for one year, is entitled to compensation, the manager, the assistant manager, the secretary, all these have been employed for a number of years or a number of months, they all get compensation because the liquidation or the winding up means the wrongful discharge of the servants. If that is the position, everybody, every servant under the general law will get compensation, but not the managing agent. I say, it is extremely unreasonable. Again when it is a question of amalgamation or reconstruction, surely there is no reason why the managing agent should be deprived of what is his due under the law. If I may remind my Honourable friend of the case of the Tata Industrial Bank in Calcutta, it went into liquidation for the purpose of reconstruction. There was a clause in the lease for forfeiture on liquidation and the result was that my Honourable friend, Mr. Susil Chandra Sen, who is not now here, collared a lakh of rupees, out of it. There was a clause in the lease that in case there was liquidation, there would be forfeiture of the lease and perfectly legally the landlord came down and said “ here is forfeiture. We do not mind why you have gone into liquidation, you have plenty of money, but this is liquidation ”. The result was that the Tata Industrial Bank had to pay a lakh of rupees cash and an increase of Rs. 250 per month in rent and as a consequence the landlord waived the forfeiture. I am referring to that for the purpose of showing that liquidation does not necessarily mean that the company is in difficulties.

Pandit Govind Ballabh Pant : But mostly.

The Honourable Sir Nripendra Sircar : Why should the managing agent be treated differently from other servants of the company ?

Pandit Govind Ballabh Pant : Because he is in charge of the whole management.

The Honourable Sir Nripendra Sircar : That has been provided for. If it is due to his default or negligence, then under the Bill he does not get any compensation, but my Honourable friend is trying to rope him in and deprive him of all his compensation where he is not at fault at all. I submit it is extremely unreasonable. I oppose this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (d) of the proposed section 87B, the words ‘ Where the Court finds that the winding up is due to the negligence or default of the Managing Agent himself ’ be omitted.”

The Assembly divided :

AYES—44.

Aney, Mr. M. S.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam.
Azhar Ali, Mr. Muhammad.
Bajoria, Babu Baijnath.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Das, Mr. B.
Das, Pandit Nilakantha.
Datta, Mr. Akhil Chandra.
Desai, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Gadgil, Mr. N. V.
Giri, Mr. V. V.
Govind Das, Seth.
Gupta, Mr. Ghansham Singh.
Hans Raj, Raizada.
Hosmani, Mr. S. K.
Jogendra Singh, Sirdar.
Joshi, Mr. N. M.
Kailash Behari Lal, Babu.
Khan Sahib, Dr.

Khare, Dr. N. B.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Maitra, Pandit Lakshmi Kanta.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Paliwal, Pandit Sri Krishna Dutta.
Pant, Pandit Govind Ballabh.
Parma Nand, Bhai.
Raghubir Narayan Singh, Choudhri.
Raju, Mr. P. S. Kumaraswami.
Ranga, Prof. N. G.
Saksena, Mr. Mohan Lal.
Sant Singh, Sardar.
Satyamurti, Mr. S.
Sheodass Daga, Seth.
Singh, Mr. Ram Narayan.
Sinha, Mr. Satya Narayan.
Sinha, Mr. Shri Krishna.
Som, Mr. Suryya Kumar.
Sri Prakasa, Mr.
Varma, Mr. B. B.

NOES—59.

Abdul Hamid, Khan Bahadur Sir.
Abdul Matin Chaudhury, Mr.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab Sir.
Ayyar, Diwan Bahadur R. V. Krishna.
Badi-uz-Zaman, Maulvi.
Bartley, Mr. J.
Benjamin, Mr. H. D.
Bhat, Mr. M. D.
Buss, Mr. L. C.
Chapman-Mortimer, Mr. T.
Craik, The Honourable Sir Henry.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Dey, Mr. R. N.

Fazli-Haq Piracha, Khan Bahadur Shaikh.
Ghuznavi, Sir Abdul Halim.
Grant, Mr. C. F.
Griffiths, Mr. P. J.
Grigg, The Honourable Sir James.
Hidayatallah, Sir Ghulam Hussain.
Hossaek, Mr. W. B.
Hudson, Sir Leslie.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Jehangir, Sir Cowasji.
Jinnah, Mr. M. A.

NOES—*contd.*

Khurshaid Muhammad, Khan Bahadur Shaikh.	Roy, Mr. S. N.
Lal Chand, Captain Rao Bahadur Chaudhri.	Sarma, Sir Srinivasa.
Laljee, Mr. Husenbhai Abdullahai.	Scott, Mr. J. Ramsay.
Metcalfe, Sir Aubrey.	Sharma, Mr. D.
Milligan, Mr. J. A.	Shaukat Ali, Maulana.
Mody, Sir H. P.	Sher Muhammad Khan, Captain Sardar.
Morgan, Mr. G.	Siddique Ali Khan, Khan Sahib Nawab.
Mukherjee, Rai Bahadur Sir Satya Charan.	Singh, Rai Bahadur Shyam Narayan.
Naydu, Diwan Bahadur B. V. Sri Hari Rao.	Sircar, The Honourable Sir Nripendra.
Nind, Mr. W. W.	Spence, Mr. G. H.
Noyce, The Honourable Sir Frank.	Thorne, Mr. J. A.
Rajah, Rao Bahadur M. C.	Tottenham, Mr. G. R. F.
Rau, Mr. P. R.	Vissanji, Mr. Mathuradas.
Rau, Mr. P. S.	Witherington, Mr. C. H.
Robertson, Mr. G. E. J.	Yakub, Sir Muhammad.
	Zafrullah Khan, The Honourable Sir Muhammad.
	Ziauddin Ahmad, Dr.

The motion was negatived.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I beg to move :

“ That in clause 42 of the Bill, for sub-section (e) of the proposed section 87B, the following be substituted :

‘ (e) The appointment of a managing agent and the removal of a managing agent shall not be valid unless approved by the company by a resolution at a general meeting of the company ; and any variation of a managing agent’s contract of management made after the commencement of the Indian Companies (Amendment) Act, 1936, shall not be valid unless approved by the company by a special resolution at a general meeting of the company ’.”

The clause as at present in the Bill reads :

“ (e) the appointment of a managing agent, the removal of a managing agent and any variation of a managing agent’s contract of management made after the commencement of the Indian Companies (Amendment) Act, 1936, shall not be valid unless approved by the company by a resolution at a general meeting of the company :

Provided that nothing herein contained shall apply to the appointment of a company’s first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth.”

My amendment seeks first to enact that the variation of the managing agent’s contract should be valid only if approved of by a special resolution at a general meeting of the company instead of by an ordinary resolution at a general meeting of the company, and also seeks to delete the proviso which I have read just now.

Mr. S. Satyamurti : Sir, on a point of order, you will kindly notice that amendment No. 65 seeks to omit only the proviso, whereas my Honourable friend’s amendment seeks to do both. I think it will be more to the convenience of the House, if the subject of appointment or removal of managing agent by an ordinary or special resolution be voted on first, and the question of the proviso being there or not voted on separately. You may put it to the vote in two parts.

Mr. President (The Honourable Sir Abdur Rahim) : I think it would be better to put No. 65 first. If that is carried, the other can be taken up.

Mr. S. Satyamurti : I agree, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Bajoria can proceed with his amendment.

Babu Baijnath Bajoria : As regards this special resolution which I want for the variation of the contract, I draw the attention of the House and of the Leader of the House to the fact that this is only done with a view to remove an anomaly. If you read section 87-C. (2), you will find :

“ Any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company unless sanctioned by a special resolution of the company.”

I think that additional remuneration and variation of contract are one and the same thing. There is not much difference, and so if my amendment is accepted this anomaly will be removed. Sir, I have left the appointment and removal to the ordinary voting of the company. As regards variation of contract, it stands on a different footing, firstly, because these variations of contract are invariably for the benefit of the managing agents, and when any variation is required it is but fair that it should be by a substantial majority of the shareholders who will favour these variations. I have in my own practical experience found that this variation of contract has been abused several times by the managing agents. As regards the proviso, this will nullify the main section. It says that if the first managing agent issues any prospectus with the terms and conditions of the managing agents' contract, then it shall not apply in the case of the first managing agent ; that is to say, only if the terms are published in the prospectus, then for twenty years the shareholders cannot change the form of the contract of the managing agent. They will have to accept whatever is written in the prospectus. As is well known, Sir, very few shareholders or intending shareholders care to read the prospectus, and so I think the terms of the first managing agent should also be confirmed at the first general meeting of the company. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, for sub-section (e) of the proposed section 87B, the following be substituted :

“ (e) The appointment of a managing agent and the removal of a managing agent shall not be valid unless approved by the company by a resolution at a general meeting of the company ; and any variation of a managing agent's contract of management made after the commencement of the Indian Companies (Amendment) Act, 1936, shall not be valid unless approved by the company by a special resolution at a general meeting of the company.”

Then, there is an amendment in the name of Mr. Satyamurti.

Mr. S. Satyamurti : Mr. Paliwal will move it, Sir. I don't want to move it.

Mr. President (The Honourable Sir Abdur Rahim) : Then there is another amendment on List No. 4, that also refers to clause (e).

Mr. S. Satyamurti : Sir, my amendment is :

“ That in clause 42 of the Bill, in clause (e) of the proposed section 87B, after the words ‘ at a general meeting of the company ’ the words ‘ notwithstanding anything contained to the contrary in section 86E ’ be inserted.”

Mr. President (The Honourable Sir Abdur Rahim) : This is for substitution. If that is carried, then, of course,.....

Mr. S. Satyamurti : I don't move it now, Sir.

Mr. Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammadian Rural) : Sir, I move :

“ That in clause 42 of the Bill, the proviso to clause (e) of the proposed section 87B be omitted.”

Now, Sir, clause 87B (e) lays down that the appointment of a managing agent, the removal of a managing agent and any variation of a managing agent's contract of management made after the commencement of the Indian Companies (Amendment) Act, 1936, shall not be valid unless approved by the company by a resolution at a general meeting of the company. This is a very salutary provision, but the proviso to the clause nullifies it. It says that “ provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth ”.

Now, Sir, it is clear that this proviso, as my friend Mr. Bajoria pointed out, exempts the first managing agent from having their contract approved by the company, for at least 20 years, and we know that the first appointments which have been exempted are generally the promoters' appointment. And the promoters are either the managing agents themselves or at best their nearest and dearest friends or relatives. It will be a case of Sir Homi Mody appointing himself and taking whatever terms he likes in the agreement. I have no doubt that the House will agree with me that this proviso should be deleted. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, the proviso to clause (e) of the proposed section 87B be omitted.”

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Mr. F. E. James (Madras : European) : Sir, may I remind you that this morning amendment No. 58 was postponed until after lunch. There were two or three verbal alterations suggested by the Honourable the Leader of the House which we accept. As far as any further amendment of our original proposal is concerned, we have gone into the matter very carefully, and in view of the difficulty of shaping the amendment in such a way as to make its interpretation perfectly clear,

[Mr. F. E. James.]

we prefer to stand on the amendment which was originally proposed this morning, subject to those verbal alterations which the Honourable the Law Member suggested.

The Honourable Sir Nripendra Sircar : Is it No. 58 ?

Mr. F. E. James : Yes, Sir. 59 is not moved. That will be moved subsequently.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendments Nos. 64 and 65 are now under discussion. I think it will be better to take up Nos. 58 and 59 after disposing of 64 and 65.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muham-madan Rural) : Mr. Deputy President, I support the amendment which seeks to delete the proviso to section 87B (e) and I shall give my reasons in a very few words. The proviso says :

“ Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth ”, etc.

My objection is this. I think it will be conceded that if this is intended to enact, any pre-formation arrangements contained in a prospectus become on the formation of a company *ipso facto* a binding contract, and it will mean really revolutionising the company law. Every item mentioned in the prospectus has no binding character whatever unless the company after its formation accepts the terms of those particular documents as the terms of a contract entered into between the person with reference to whom those provisions are intended to apply. If therefore the proviso is intended to say that the first managing agents' appointment becomes an appointment as soon as the company is formed, I submit the House ought not to accept it at all, for this reason, that it will be introducing an innovation entirely unknown to company law anywhere in the world. It was said that supposing the appointment of a managing agent is contained in the Articles, it is also good law, that the Articles only constitute a contract between the shareholders *inter se*, and never can constitute a contract between the company on the one hand and strangers on the other, though in some cases I quite agree where the appointment is not in question, the terms of the appointment have been gathered from any one of these documents, and particularly from the Articles, but there the essence of the point has always been not so much whether the man is appointed or not, but having been so appointed like a manager, what are the terms of his appointment. But the first two propositions stand, I submit, unchallenged subject to correction (1) that no arrangement—I use that word because it is less than an agreement,—no arrangement made in what is called the pre-formation period of the company can *ipso facto* become a contract with the company on its formation, and (2) that its incorporation in the Articles will not constitute a contract between the company and other persons. The only other meaning, the narrower meaning of this proviso can be that it is intended in the terms of the prospectus, if they contain the appointment of the managing agent that, the directors should be free, if they have such power under the Articles on the formation of the company, to enter into the

contract in those terms. Objection to that is also very vital. They are not directors appointed by the shareholders, because the first directors are the subscribers to the memorandum under the Companies Act, and therefore they cannot in any sense be said to represent the company in any sense whatever. For this reason, I submit the proviso should be omitted.

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, it is with some diffidence that I rise to oppose the point of view put forward by so distinguished a company lawyer as the Honourable the Leader of the Opposition. I submit, Sir, that the argument put forward in favour of Amendment No. 65 for the deletion of the proviso to 87-B (e) of clause 42 is not a correct one. He suggests, at least I understood him to say so,—that what this proviso does is when a company is formed, it would have to go to its shareholders to ratify the agreement with the managing agents and so on. He quoted various instances and talked about the arrangements and contracts that had to be ratified by the companies. In one sense, it is correct, they are ratified by the companies, that is to say, they are ratified by the first Board of Directors. That is not the same thing, as Honourable Members are aware, as the contracts being ratified by the company in general meeting. He suggested that what is proposed in this proviso will revolutionise company law. For the reason I have just given, Sir, I submit my learned friend is not correct in this particular. And I would like to suggest a case in point, and here the issue is not one between the managing agent and the company, but between Mr. A or B who happens to own, for example, a gravel pit. We will suppose that having worked in their individual capacity as land-owners for some years, they decided to form a company, which would take over the control of the gravel pit. The terms of sale might easily be that A would receive a block of shares and a sum in cash as well in return for transferring to the company the gravel pit I have mentioned. That is a case of contract or arrangement entered into before the company is formed. That is ratified, as I understand the position, by the Board of Directors when they meet to consider the first business before them. It is not at all brought before the company in general meetings. The same thing exactly applies in the case of the first managing agents. If we inquire into the position of a newly formed company it is always something like this. The managing agents have decided to float a company. They believe that a new jute mill or a cotton mill or a colliery would be a good thing. They therefore make up their minds as to how much capital is required, and they conduct all the initial preparations required for the formation of the company. They then get together with some friends to arrange as to who will be the first directors, who will underwrite and so on. All these things are arranged, and in return for that, they obviously ask—“ We are not going to be turned out from our managing agency within the first year of the formation of the company ”. They will naturally say “ We are going to start this new venture and in return we hope that you are giving us the managing agency ”. That is a matter then between the Board of Directors who will represent the shareholders, and the managing agents. The managing agency on these terms will be allowed to manage the company in return for all the initial preparations they have conducted. I submit, Sir, that is the position today, and my friend the Honourable the Leader of the Opposition is under a misappre-

[Mr. T. Chapman-Mortimer.]

hension, and his interpretation of this amendment is therefore wrong. Sir, I oppose this amendment.

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend the Leader of the Opposition laid down three propositions of law and I need hardly say that I agree with every one of them. There is no question of law on which I am at issue with him. The point before the House is very short and it depends on the opinion of the House as to which of the two considerations ought to prevail. The position is this : it is quite true as my Honourable friend has said that you may set out anything in the prospectus ; but that does not amount to a contract. With that I agree if I may say so respectfully. But what generally happens—again my knowledge is limited to Bengal or rather Calcutta—is this : that the first set of directors, who are practically friends or nominees, as my Honourable friend said, of the promoters, appoint the managing agents : then in the articles the managing agency terms are generally set out as to A. B. C. being the managing agents and they will get such and such remuneration. Under powers delegated to the directors by the articles the directors sign that agreement between the managing agency firm and the company, so that in practice the appointment of the first managing agent does not come up before the shareholders. I have also seen articles where the articles provide that this appointment must be put up before a general meeting, but they are more by way of exception than the rule. Therefore, we come back again to that position : there is no question of law outstanding. I buy a share : I see not only the prospectus on which I am not placing so much reliance for purposes of contract—I will not urge that for a minute—I know what the articles are also ; and whatever the old law might have been, in our new provision in clause 48, if I may remind Honourable Members, at page 22 of the Bill, the prospectus has got to set out any provision in the articles or any contract as to the appointments of managers or managing agents, and the remuneration payable to them ; so that I am buying a share knowing of the prospectus, knowing of the articles. My Honourable friend is quite right in saying that the articles do not constitute a contract as between the company and an outsider, namely, the managing agent, but it does constitute a contract between the member and the company. Therefore my position is that I have bought shares knowing of the articles, and I am under contractual obligation to respect the contract which provides that A. B. C. will be the managing agent and the directors will sign that agreement. I will read only two lines from Buckley on Companies—page 35 :

“ The articles do constitute a contract between them and the correct view is that stated by Lord Herschell : the articles constitute a contract between each member and the company.”

Then he proceeds to say that the article does not constitute a contract between an outsider and the company. Therefore what is the position ? I remember the argument about the shareholder being weak and ignorant and living apart from one another and so on. But the position is that I have become a party to a contract as a result of which I have agreed—but of course we can change that agreement by overriding force of statute—that A. B. C. should be appointed as managers by the directors. Is it fair in that case, after the managing agents have taken the trouble to float a company and doing everything possible, that I should go before the shareholders and say “ You have done everything that is possible. I am a

party to an agreement by which you are entitled to get $2\frac{3}{4}$ per cent. but I have my friend in Bankshall Street who will take it for $2\frac{1}{2}$ per cent. and so you shall go out". Is that fair? After all, these are the two balancing considerations and I do think the proviso ought to stand. My Honourable friend is quite right in saying that the proviso will be useless where either (1) the articles provide that the appointment has got to be made at a general meeting, or (2) where power is not given to the directors by reason of delegation from the company to enter into such a contract. In those two cases it will be useless, but in the majority of cases it has its use, because this first appointment does not as a matter of fact always come up before the shareholders. I submit no sufficient reason has been shown as to why the proviso should be deleted, or why a person who buys shares—and we are making all safeguarding provisions for him—he knows fully the contents of the articles, he knows who is going to be managing agent and what he is going to be paid, and then he buys shares. Having done all that if he turns round and says "I will turn out the original managing agents", I do not think it is reasonable. I oppose the amendment.

Mr. S. Satyamurti : Sir, this is one of those amendments which the Select Committee in an unfortunate moment accepted.....

The Honourable Sir Nripendra Sircar : Fortunate moment!

Mr. S. Satyamurti : My Honourable friend, the Law Member, conceded the point made by the Leader of the Opposition that the prospectus by itself will not constitute a contract. His main argument was based on the articles of the company which may provide and often do provide for the appointment of managing agents, their terms, and so forth, and also give the directors power.....

The Honourable Sir Nripendra Sircar : Contract between the directors and the managing agents (?)

Mr. S. Satyamurti : But my Honourable friend must notice that section 87-B (e) begins with these words :

"Notwithstanding anything to the contrary contained in the articles of the company or in any agreement with the company.....".

Therefore, the whole object of this section—I am not talking of the proviso—is that notwithstanding whatever may be contained in the articles of association, the appointment of managing agent must come before the company for ratification by a resolution. Then the proviso comes in, and says that :

"nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus."

The proviso contemplates the appointment not in the prospectus, but prior to the prospectus. May I know what those words mean? It is not made as part of the prospectus even. The proviso contemplates the appointment made prior to the issue of the prospectus, that is to say, the promoters nominate directors, the promoters nominate themselves as managing agents; and then they put that into the prospectus, after having made the appointment.....

The Honourable Sir Nripendra Sircar : No, no.

Mr. S. Satyamurti : Yes; please read the words "nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus". If those words mean anything at all, they mean that the act of appointment must be

[Mr. S. Satyamurti.]

anterior in time to the issue of the prospectus. Therefore, it contemplates an appointment, as apart from the prospectus. No doubt, the words follow "where the terms of the appointment of such managing agent are there set forth". It seems to me that it is not even a case of directors appointing. My Honourable friend said directors are given the power—they can appoint. But where do the directors come in at all? The appointment is made before the issue of the prospectus.....

The Honourable Sir Nripendra Sircar : Yes ; but you cannot sell shares unless the prospectus is out.

Mr. S. Satyamurti : There are these stages, the appointment of managing agents by promoters, then the issue of the prospectus, then the sale of shares. These two acts, the issue of the prospectus and the appointment, are different acts, and I submit that it is but right that, after all these things have been done, the matter ought to come before the shareholders. Of course, the Leader of the House's stock argument, in respect of all these amendments, is that something may happen, the shareholders may do something very wrong, but I do suggest that if the proviso stands as it is, sub-section (e) of section 87-B will be a dead letter. There are going to be no promoters who are not going to appoint themselves as managing agents before the issue of the prospectus. What is the sub-section? Notwithstanding anything to the contrary contained in the articles of the company or in any agreement with the company, the appointment of the managing agent must come before the general meeting of the company : Provided that, if the prospectus contains a prior appointment there is no need for this. I submit that the temptation for every promoter will be to take advantage of the proviso making the section practically nugatory. I do hope that the House will accept the amendment deleting the proviso.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is:-

"That in clause 42 of the Bill, the proviso to clause (e) of the proposed section 87B be omitted."

The motion was negatived.

Babu Baijnath Bajoria : I beg leave to withdraw my amendment No. 64.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment No. 58.

Mr. F. E. James : As I explained before on this matter, this amendment was moved by my Honourable friend, Mr. Buss, before the lunch recess, and the Honourable the Law Member suggested certain verbal alterations which we willingly accept. There was a further question raised by my Honourable friend, Mr. Satyamurti, which led to the amendment being withdrawn until this afternoon so that we might give consideration to the possibility of amending it in the direction suggested by my Honourable friend. We have considered the matter very carefully with the best advice possible, and we have come to the conclusion that we have no option but to stand by the amendment as it was originally proposed, in view of the difficulty of suggesting any other amendment

to it which would not leave in some considerable difficulty and doubt its proper interpretation. Therefore, we hope that the House under those circumstances will accept the amendment as we originally proposed it, subject to the verbal alterations suggested by the Honourable the Law Member. I might just mention those to refresh the minds of Honourable Members,—instead of the word “partner” in the second line the word “member”; instead of the words “shall be” in the third line the word “is”; and instead of the words “shall be” in the last line the word “is”.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The amendment moved will then read thus :

“That in clause 42 of the Bill, to sub-section (a) of the proposed section 87B, the following proviso be added :

‘Provided that a Managing Agent shall not be liable to be removed under the provisions hereof if the offending member, director or officer as aforesaid is expelled or dismissed by the Managing Agent within 30 days from the date of his conviction or if his conviction is set aside on appeal.’”

The question is that that amendment be made.

The motion was adopted.

Mr. G. E. J. Robertson : Sir, I move :

“That in clause 42 of the Bill, to sub-section (b) of the proposed section 87B, the following proviso be added :

‘Provided that in the case of a Managing Agent’s firm a change in the partners thereof shall not be deemed to operate as a transfer of the office of Managing Agent, so long as one of the original partners shall continue to be a partner of the Managing Agent’s firm. For the purpose of this section ‘original partners’ shall mean, in the case of Managing Agents appointed before the commencement of the Indian Companies (Amendment) Act, 1936, partners who were partners at the date of the commencement of the said Act, and in the case of Managing Agents appointed after the commencement of the said Act, partners who were partners at the date of the appointment.’”

Sir, in his remarks last week on clause 42 of this Bill generally the Honourable the Law Member referred to the sub-section dealt with by this amendment and said that Government would oppose attempts to make the transfer of agency permissible without the approval of shareholders. I do not think there can be any disagreement with that point of view. He also went on to say that Government were quite prepared to consider any attempt to define what act will amount to an assignment or transfer of office. Now, Sir, I submit that this clause (b) of section 87-B as it stands would be liable to cause a transfer of office by the managing agent every time a partner retired and a new partner was assumed and I do not think that that proposition could possibly be entertained. I would like to deal with the question in two parts. First I will deal with the question of the managing agents appointed after the commencement of the amending Act. In their case the House has already approved of the principle that their tenure of office should amount in the maximum and the minimum at the same time to 20 years. If they have to refer to the shareholders every time a new partner is assumed, that will eat into this period of life which the Bill in another clause confers upon the managing agents. And I submit that that position will be intolerable. The amount of inducement still remaining to the managing agent to finance industry would be seriously curtailed if the managing agent is aware that every time a new partner is

[Mr. G. E. J. Robertson.]

assumed he has to refer to the shareholders. I would like to remind the House of the remarks made by the Leader of the Opposition the other day when he referred to a case in the Bombay High Court concerning a managing agency firm by the name of Goculdas and Company. The decision of the Court in that case was that as none of the existing partners of the firm of Goculdas and Company had been contemporaries of the original partners at the time when the managing agency contract was entered into, the firm could no longer be identified as the original managing agency firm with which the company had contracted. The inference from that decision must be that, had any one of the existing partners been a contemporary of the original partners, no transfer of office could be deemed to have taken place. The amendment which I am moving goes further than that. It provides that at least one of the existing partners must not only have been a contemporary of the original partners but that he must have been one of the original partners.

Now, with regard to the appointment of the managing agent before the commencement of this Act, I am aware that on the basis of the decision to which I have just referred, it might be held that many existing managing agency firms have lost their original identity, that is to say, none of the original partners are now partners of the firms, and that to provide that "original partner", for the purposes of this section, shall mean, in the case of managing agents appointed before the commencement of the Companies (Amendment) Act, a partner who was a partner at the time of the Act, would add something which is not already there in law, and would perpetuate a firm which had already lost its original identity. Now, I think I can answer that point. If the remedy exists at present in law, that is to say if the company feel that the managing agency firm has already lost its original identity, they have their remedy, and if they have not exercised that remedy, one may assume that they accept the managing agency firm which exists as constituted at present. Therefore, we are dealing with the position from the present date onwards, or rather from the date of the amending Act onwards. If the company has accepted the personnel of that firm as at present constituted, if it has not challenged its personnel in a Court of law on the ground that the firm has lost its original identity, it is reasonable to lay down in this Act that original partners for the purposes of this section in the case of managing agents appointed before the commencement of the Act shall be determined on the date of the Amending Act and that thereafter the test will be whether or not there remains in the firm one of the original partners who was a member of the firm on the date of the Amending Act. I don't want to say very much on the subject. I think the principle is quite clear. It should not be necessary repeatedly for a managing agent to have to go before the shareholders on the assumption of a new partner, and I hope, Sir, that the House will find themselves able to accept this amendment. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved.

"That in clause 42 of the Bill, to sub-section (b) of the proposed section 87B, the following proviso be added :

"Provided that in the case of a Managing Agent's firm a change in the partners thereof shall not be deemed to operate as a transfer of the office of Managing Agent, so long as one of the original partners shall continue

to be a partner of the Managing Agent's firm. For the purpose of this section 'original partners' shall mean, in the case of Managing Agents appointed before the commencement of the Indian Companies (Amendment) Act, 1936, partners who were partners at the date of the commencement of the said Act, and in the case of Managing Agents appointed after the commencement of the said Act, partners who were partners at the date of the appointment '."

Mr. Bhulabhai J. Desai : Sir, I rise to oppose this amendment. I think it must be obvious to those who put forward this amendment that they are really seeking to extend the privileges far beyond those that are allowed to them, and I must say that my Honourable friend, Mr. Robertson, candidly admitted that. Remembering that, I may point out to him that he is entirely wrong in saying that the decision to which I called attention does not carry the matter further, because there the fact remains that both Mr. Goculdas and Mr. Dipchand died. Their respective sons had been accepted as managing agents under the names of Morarji Goculdas & Sons, and still those people who came after them have not been accepted by the Court as having a title to the managing agency under the name of Morarji Goculdas and Company. The decision was very clear. This is merely intended to give not merely 20 years where more than 20 years existed as they say expropriation, but this is a case of revival, where a contract had otherwise ceased to be operative is made to be operative as a result of this amendment. The least my friend can do is to omit the words "for the purposes of this section original partners shall mean....." and come to the end "partners who were partners at the date of the appointment", otherwise it merely comes to this, that those partnership firms had been carrying on business for the last 50 years, but none of the original partners now exist, and therefore the present successors of that firm have no title at all to continue, and except of course with the consent of the shareholders they can as a matter of law claim the right of that perpetual succession. I do appeal to my friend the Leader of the House not to accept the amendment if it is insisted on in the terms in which it is moved.

Mr. T. Chapman-Mortimer : I regret, Sir, I have again to oppose my friend the eminent company lawyer, the Honourable the Leader of the Opposition. I do submit that what we propose here is not any departure from the existing state of affairs. What we want to do is to make sure about what the House has decided to do. The House has already decided that the managing agency contracts that now exist shall be allowed to go on for 20 years. But if Honourable Members will look at 87B (b) they will see that it is stated there that the transfer of the office by a managing agent shall be void unless approved by the company in general meeting, in other words irrespective of what is said in 87A (2) about the period being up to 20 years. All that will be washed away, because some one will come along and say—"Look here, none of your original partners are in your firm, this is a new firm, you must come before the shareholders". That seems to conflict with the intention of the Honourable the Law Member and the intentions of this House as well as expressed in their verdict a couple of days ago. All that we seek to do in this amendment of ours,—and I think the principle is generally conceded as I understood the Honourable the Leader of the Opposition to say,—all we seek to do is this, that where a new partner is admitted to the managing agency of the firm it should not mean that that firm has got

[Mr. T. Chapman-Mortimer.]

again to go to the shareholders in respect of every company under its management and say 'Will you please renew our managing agency agreement'. It seems to me that it is not a reasonable request to make, and if some alteration of wording is later on found to be necessary, that could be considered at the Third Reading, but for the moment, it is quite impossible for my friends on this side of the House to accept any alteration in our amendment. Sir, I support the amendment.

The Honourable Sir Nripendra Sircar : Sir, I agree with the observations just made by my friend, Mr. Bhulabhai Desai, in regard to the case he referred to, but what I beg of him to consider is this. Are the managing agents really getting an extension if this amendment is accepted by this House? Supposing they are hit by the reasoning of that decision? Can they remain, because a transfer is defined in this way? I submit not. If they go out, they will go out by reason of that ruling, because A, B and C, the original partners having died or retired, this new firm X, Y and Z has no business to be there. Can they say, well, here is a clause which says that it is not a transfer because at the time of the commencement of this Act, these were the people who had been accepted? I submit not. I submit that will be no defence. By this Bill we are introducing an additional ground for getting rid of managing agents. We are now defining that it will not operate as transfer or assignment if any of the partners who were in existence still continue to be one of the partners of the newly constituted firm. Therefore, with great respect to him, I suggest that if this amendment is carried out and the rule laid down by decision referred to by him is good law—I have no reason to doubt its correctness,—then they cannot save themselves by saying that at the commencement of the Act all the partners were new, I submit that the danger does not exist here. I see no reason for this House really to object to this amendment. If I am wrong my friend will correct me. What I am pointing out to Mr. Desai is that they cannot get out of the ruling in the Gokuldas case by reason of this amendment. They will be hit. They will have to go out. They have no business to be there not being the original firm, and not because they have transgressed the new provision in this Bill which defines original partners.

Mr. Bhulabhai J. Desai : Is it not a necessary implication from the definition of the original partners, not the original partners at the date of the appointment but the original partners today, that is to say at the commencement of this Act. It must involve this, that for the purposes of testing their right to remain managing agents the partnership should be deemed to commence for the purposes of the appointment from the date of the operation of the Act.

The Honourable Sir Nripendra Sircar : I have not lost sight of that and therefore I was going to suggest to the mover that he should make it clear that while he says 'original partners' that must be only for the purposes of this section. The argument is not to be advanced that because I have said.....

Mr. Bhulabhai J. Desai : May I suggest the words "for the purposes of validating the transfer", etc. With those words added, I am quite willing to accept it.

The Honourable Sir Nripendra Sircar : I think the Honourable the Mover ought to accept the idea, because it carries out his object.

Mr. Bhulabhai J. Desai : May I say this ? I said " for the purpose of validating the transfer ". Because each time the firm is dissolved, as soon as a new partner is added, it is really a new firm. In the eye of the law, it is a transfer, but none the less it should not be treated as a transfer.

The Honourable Sir Nripendra Sircar : I have no objection whatsoever, but will it not serve our purpose if we say " for the purpose of this proviso ". I think that will meet your point.

Mr. G. E. J. Robertson : I accept that change.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :
 " That in clause 42 of the Bill, to sub-section (b) of the proposed section 87B, the following proviso be added :

' Provided that in the case of a Managing Agent's firm a change in the partners thereof shall not be deemed to operate as a transfer of the office of Managing Agent, so long as one of the original partners shall continue to be a partner of the Managing Agent's firm. For the purpose of this proviso ' original partners ' shall mean, in the case of Managing Agents appointed before the commencement of the Indian Companies (Amendment) Act, 1936, partners who were partners at the date of the commencement of the said Act, and in the case of Managing Agents appointed after the commencement of the said Act, partners who were partners at the date of the appointment'."

The motion was adopted.

Mr. S. Satyamurti : Sir, I beg to move :

" That in clause 42 of the Bill, in clause (e) of the proposed section 87B, after the words ' at a general meeting of the company ' the words ' notwithstanding anything to the contrary in section 86E ' be inserted."

You will notice that section 86E provides.

" No Director shall without the consent of the Company in general meeting hold any office of profit under the company except that of a managing director or manager or a legal or technical adviser or a banker."

At that time, there was some ambiguity about it. In order to make it perfectly clear that that power which is sought to be conferred by section 86E will not override the provisions of section 86B, I move this amendment. I hope the Law Member will see his way to accept it. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

" That in clause 42 of the Bill, in clause (e) of the proposed section 87B, after the words ' at a general meeting of the company ' the words ' notwithstanding anything to the contrary in section 86E ' be inserted."

The Honourable Sir Nripendra Sircar : I accept that amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

" That in clause 42 of the Bill, in clause (e) of the proposed section 87B, after the words ' at a general meeting of the company ' the words ' notwithstanding anything to the contrary in section 86E ' be inserted."

The motion was adopted.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I rise to move :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, for the words ‘ Where any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, appoints a managing agent,’ the words ‘ Where any company appoints a managing agent after the commencement of the Indian Companies (Amendment) Act, 1936,’ be substituted.”

Sir, this is a simple amendment and I hope my Honourable friend, the Law Member, will accept it. Sir, I want to remove a certain lacuna which has unconsciously crept into the Select Committee's Report. Sir, there are many companies today in India which have no managing agents : they are run by secretaries or by managing directors. Suppose such companies appoint managing agents after this Act, why should they take advantage, and should it be that companies that have been incorporated after the Indian Companies (Amendment) Act, 1936, should be subjected to the managing agent's remuneration as described in 87C, *i.e.*, as percentage on net profit and that those companies that existed before 1936 can have recourse to other systems, *viz.*, commission on profit and production as well ? Sir, I gave notice of this amendment because I was apprehensive that there are many existing companies which now enjoy Government concessions, such as electric licenses, mining concessions and other things, and at times we have found that these managing agents are changing hands. American firms and British firms are trying to participate and to buy off these managing agents. Now I do not like that such State concessions should be provided for the benefit of foreign firms ; at the same time I do not like that companies, if they appoint or re-appoint managing agents hereafter, should try and take shelter under this section and unnecessarily demand remuneration on a different basis than what is described in 87C (1). I wish to remind my friends from Bombay how this Assembly got alarmed three or four years ago when it was apprehended that certain American firms were getting interested in the managing agents of the Tata concern, with reference to the hydro-electric concessions that the Tata company got. At present the State gives certain concessions and benefits to the Indian managing agents, but subsequently to this Act, any foreigner by buying off the managing agency of a company may think that they will have to subject their remuneration as described in 87 (c), and therefore I have moved this amendment and I do hope the Government will accept it.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, for the words ‘ Where any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, appoints a managing agent,’ the words ‘ Where any company appoints a managing agent after the commencement of the Indian Companies (Amendment) Act, 1936,’ be substituted.”

Mr. T. Chapman-Mortimer : Sir, I oppose this amendment. The effect of this amendment, if it is passed, will be that all existing companies will immediately be brought within the scope of the new proposed section 87-C (1). (Interruption.) Sir, I repeat that the effect of this will be to bring within the scope of this new section all existing managing agency companies because as and when a company will appoint the managing agent, it will immediately fall within the scope

of this clause if this amendment is carried. I may just read the amendment :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87-C, for the words ‘ Where any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, appoints a managing agent,’ the words ‘ Where any company appoints a managing agent after the commencement of the Indian Companies (Amendment) Act, 1936,’ be substituted.”

Now, Sir, it may seem to many in this House that it is unreasonable to take the view that existing companies should be treated differently from companies that will be incorporated after this Act has been passed. But if Honourable Members will look at 87-C (2) which follows, they will see that in future as and when existing companies appoint managing agents, they must go to the company for a special resolution if they want to secure terms other than those provided in 87-C (1). The effect of this amendment, however, will be to go much further than that, because it will bring within the scope of this section 87-C (3) all existing companies as and when they appoint managing agents,—which is not at all what was contemplated when this matter came before the Select Committee. In the Select Committee those who were putting forward what I may call the conservative case agreed to many of the proposals put forward in 87-C (3), the other part of this section, on the assumption that they were only to relate to companies that were incorporated after the Act and to no others. It seems to me that we should stand by the agreement come to in the Select Committee.

Mr. M. Ananthasayanam Ayyangar (Madras Ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, the objection, which my Honourable friend, who has just concluded, seems to have, was originally based on a misapprehension, but subsequently he wanted to justify the supposition, and, therefore, he thought that he ought to object to this very mild amendment. I think this amendment ought to have been incorporated in the original Bill itself, but by oversight it dropped out. We have made several provisions applying to the existing managing agent. If this amendment is not accepted, all the foreign companies will not be affected. There has been so much difficulty that the existing managing agents have entered into unconscionable bargains, and even my Honourable friend, Sir Cowasji Jehangir, admitted that a provision that the managing agents should be entitled to remuneration on the basis of production and not even on the basis of sale is unconscionable ; but, as it stands, there is absolutely no law which can treat it as unconscionable, and, therefore, in so far as any amendment which will remove such a provision and make it unconscionable and void, he will, I hope, be only too willing if to that extent the amendment is effective. By this amendment, all that is sought to be made is to see that the provision regarding remuneration contained in 87-C (1) applies not only to future but to the existing companies also, when hereafter, whether in respect of existing companies or companies which will come into existence, in future, if remuneration is to be fixed, it should be fixed at a fixed percentage of the profits. Under those circumstances it will be idle to contend that this in any way makes a departure. I would, therefore, submit that this is most reactionary. We have already agreed to extend the lease of life of existing managing agency to twenty years and I thought these persons who were anxious that the existing managing agencies ought not to be restricted to anything below

[Mr. M. Ananthasayanam Ayyangar.]

twenty years would have accepted this amendment. This is only justice and fairness to the shareholders of many companies. Sir, I support the amendment wholeheartedly.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : Mr. Deputy President, my Honourable friend who opposed this amendment just now spoke of some understanding in the Select Committee. I regret I was not present in the Select Committee when this clause was under discussion but I understood that the lives of all present managing agents were to be extended by 20 years. After these 20 years if any managing agents had to be appointed by companies incorporated before this amending Act comes into force, they would be appointed on the basis of a remuneration on profits and not on production. That was what I understood the Select Committee desired to do. If this amendment is not accepted, the result will be that all companies incorporated before this Act comes into force will have the privilege of appointing managing agents for all times to be remunerated on production. That will drive a coach and four through this very section which intends to prohibit future managing agents being remunerated on the principle of production. There are thousands of companies that have been incorporated before the year of Grace 1936. Are we to allow them to go on appointing in future, that is, 20 years hence, managing agents on a remuneration on production ? I thought it was the intention of this Honourable House that that system should be put an end to as soon as possible.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

We have given them 20 years more. Surely we are not going to give the existing companies a perpetual life. I, therefore, think that there is a good deal in the amendment and it carries out the intentions of the Select Committee. I do not see how my Honourable friends here object to it. If managing agents today are being remunerated on production, they will go on being remunerated on production for 20 years. Do they mean to contend that, if after 20 years they come before their shareholders, they shall have the privilege of being remunerated again for another 20 years on production ? Sir, I do not think that was the intention of the Select Committee. I trust that the House will support this amendment because I feel that it carries out the intentions of the Select Committee.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Sir, I am afraid I cannot agree with my Honourable friend, Sir Cowasji Jehangir. The intention of the Select Committee was plain enough and it was that the existing managing agencies should not be touched. When the existing managing agents at the end of 20 years or any other period that may be, approach their shareholders, and if the latter so decide, they can continue the managing agents' remuneration on the same basis as before. That intention is clearly brought out by the terms of 87-C (1) and (2) and I do not see where the ambiguity lies. There was no doubt whatsoever in the minds of the Select Committee, and I being a member of it know something about it.

Mr. M. Ananthasayanam Ayyangar : It is an error.

Sir H. P. Mody : It is not an error. If it was an error, surely my Honourable friends should have noticed it when they were considering the draft report which was placed before the Select Committee. (Interruptions.) There are no ambiguities ; the whole thing is crystal clear. I submit that there is nothing wrong in an existing managing agent being able to go before the shareholders at a general meeting and getting that general meeting to endorse the basis of remuneration which he is enjoying today. Sub-section (2) of 87-C, I am afraid, does not bear the interpretation which my friend Mr. Chapman-Mortimer has put on it, what does 87-C (2) say :

“ Any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company unless sanctioned by a special resolution of the company.”

This can only relate to 87-C (1) which clearly lays down that the company must be a company which is incorporated after the commencement of this amending Act. Sir, I oppose the amendment.

Mr. Bhulabhai J. Desai : Sir, the Bill would have very little value if the present amendment is not accepted. The true criterion is not whether the company is old or new but the true criterion is when the next appointment of the managing agent comes up for consideration because it is for the future appointment of managing agents that a uniform system or method or basis is laid down in sub-section (1). As regards the basis, there can be no distinction between the companies incorporated today and the companies to be incorporated hereafter. I am not, therefore, putting it on the ground of misapprehension. I am putting it on the ground that if this Bill is going to have any value, this provision must be there, otherwise so far as the vice is concerned, the existing companies today which are all too numerous with many managing agents for whom my Honourable friend, Sir Homi Mody, has spoken will continue to be at large for all time. That certainly could not have been the intention of the Act.

Mr. M. S. Aney (Berar Representative) : Sir, whatever may have been the agreement in the Select Committee, in this House we have to see what is equitable and what is just. So, those of us who were not members of the Select Committee are free to look at this question from the point of view of equity and justice. I really do not think how the amendment which my Honourable friend, Mr. B. Das, has just moved is going to affect any vested interests at all. If the period of 20 years expires which has been fixed for them and the question of the appointment of managing agents comes up for consideration, why should it be that the provisions laid down in 87-C not be made applicable to them.

Sir H. P. Mody : Why should they ?

Mr. M. S. Aney : I am trying to convince my friend if he is open to conviction. If he says there is good reason for changing the basis of profits from production to that of net profits, then it is good not only for new companies that may come into existence hereafter but even for old companies. Having given a lease of 20 years for them to live after the commencement of this Act, which is certainly more than what the managing agents of existing companies deserve according to most of us, here, I think it would be more equitable on their part to be bound

[Mr. M. S. Aney.]

by that rule after the expiry of that period. By that law you must be governed and therefore I think that the amendment which is moved by my Honourable friend, Mr. Das, should be supported unanimously.

The Honourable Sir Nripendra Sircar : Sir, I want to say a few words. In a matter of this kind, there is no good repeating the old arguments. The question will arise as to why you are not going a little further than what you have done under your Bill and the other side will ask why do you go so far. So I do not propose to repeat my arguments as to why we came to this conclusion. It is not based on any agreement but the intention is perfectly clear as to what was meant by the Select Committee, and I would remind the Honourable Members that this is not the case of a first appointment. If it is not the case of a first appointment, and supposing his term runs out after 10 years and he is going to be re-appointed, then under 87-B (e) his appointment must be approved of by a resolution at a general meeting. That is to say, on this occasion he cannot simply ask the directors to re-appoint him ; he has got to come before the shareholders. We thought that as that provision has been put in, he must come before the shareholders. There is no reason as to why they should be deprived of their right to come up before the shareholders and to get the terms which they want. If it had been the case like the first appointment that he need not come before the shareholders, then my Honourable friend Mr. Aney's argument would be very forcible. They have got to come before the shareholders. My Honourable friend, Sir H. P. Mody, seems to be thinking of the managing agents alone, but it is not a question of the existing managing agents being exempted. The point from which I look at the matter is this. I look at the companies, not the managing agents of the existing companies. These companies under their articles have certain rights, and we do not propose, beyond the extent to which we have gone, to deprive them of their rights under these articles. But the abuse which is possible by reason of some of these articles giving extraordinary powers is a question which, in this particular case, does not arise. I do not desire to repeat my arguments. I have shown that in the case of these appointments, they must come before the general body of shareholders.

Mr. M. Ananthasayanam Ayyangar : On a point of information, Sir. Does not that apply.....

The Honourable Sir Nripendra Sircar : I would ask my Honourable friend to apply to the Bureau of Information in the Home Department, I do not propose to give any.

Mr. M. Ananthasayanam Ayyangar : You belong to the Law Department. What is the good of going to the Home Department ?

Pandit Govind Ballabh Pant : Sir, I do not exactly follow the position of the Honourable the Law Member. I want to know whether he accepts the amendment or not.

The Honourable Sir Nripendra Sircar : I oppose the amendment.

Pandit Govind Ballabh Pant : I am really surprised and somewhat astonished. I should like to invite the attention of the House to amend-

ment No. 73 on the agenda appearing in the name of my Honourable friend, Mr. Susil Chandra Sen, which runs thus :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, after the words ‘ appoints a managing agent ’ the words ‘ or where any company incorporated under this Act appoints or reappoints a managing agent after the commencement of the Indian Companies (Amendment) Act, 1936 ’ be inserted.”

The meaning is clear. Under this amendment, this clause would cover all existing companies, with the result, that whenever an appointment is made of a managing agent after the commencement of the Indian Companies (Amendment) Act, 1936, it should be made only in accordance with the provisions of this Amending Act. I should think that Mr. Sen gave notice of this amendment with the consent of the Honourable the Law Member.

Sir H. P. Mody : He may be acting *ultra vires*

Pandit Govind Ballabh Pant : I am only suggesting that either the Honourable the Law Member himself and his Government were of the opinion that a change of this sort should be made or in case he had not been consulted evidently his expert Adviser was of the opinion that this amendment was so very important and urgent that he considered it necessary to give notice of it even without consulting the Honourable the Law Member. One of the two alternatives must be true, either he had his permission or he thought the matter was very urgent and amendment absolutely necessary. Now, let us see what the amendment actually means. The tenure of a managing agent who is holding office today may come to an end in many ways. He may be turned out and removed because of his non-compliance with some of the provisions of this particular Amending Act. But though he is turned out or removed because of his non-compliance with or contravention of some of the provisions of this particular Act, yet when the question comes of his appointment or of the remuneration that he should get, then the provisions of this very Act are not to be applied to his case. That seems to me to be very illogical. If you will please look at section 87-A, it simply says :

“ Notwithstanding anything to the contrary contained in the Articles of a company or in any agreement with the company, a managing agent of a company..... shall not continue to hold office after the expiry of 20 years.”

It may automatically in the ordinary course come to an end even after five years. What is to be done thereafter ? Is he to be free to charge his remuneration on the basis of sale and purchase or is he to be controlled by this clause ? Whatever may be the difference of opinion in this House, there was unanimity at least on the point, that the system of appointment on the basis of products or of purchase or sales was and is highly improper. In fact my Honourable friend, Mr. Hussenbhai Abdullabhai Laljee, had given notice of an amendment to the effect that even in the case of the existing managing agents, the contracts which enable them to get remuneration on this basis should be annulled and this provision should be made retrospective. But, I am really surprised that the Honourable the Law Member should now go back even on the amendment of which notice has been given by Mr. Susil Chandra Sen. Without taking up the time of the House, I should say that it has been held by all the Tariff Boards that this system of appointment is vicious and that it should be abandoned as soon as possible. I see no reason why the amendment of which notice has been given by Mr. Susil Chandra Sen should not be adopted by the House. I hope the House will adopt it.

Mr. M. A. Jinnah : Sir, it seems to me that this is rather a serious matter, as far as I understand it. I understand that clause 42 which seeks to put in section 87-A and other sections in the Act lays down a uniform principle that agreement for remuneration should be based on the percentage of profit. Sub-section (2) of section 87-C also says :

“ Any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company unless sanctioned by a special resolution of the company.”

Therefore, having regard to this provision in sub-section (2), the managing agent can enter into an agreement for remuneration on any other scale or any other form provided only if it is accepted by a special resolution of the company. It seems to me that sub-clause (2) nullifies the principle enunciated in sub-clause (1) because under sub-clause (2) the agent can get any stipulation provided of course a special resolution of the company accepts it. But before we come to sub-clause (2), dealing with sub-clause (1), I should really like to understand why the Law Member wants to oppose this amendment. If this amendment is opposed,—I hope he will correct me if I am wrong,—the net result of it will be that all the existing companies which are already incorporated and whom you have already given a charter for 20 years will not be governed by this provision at all. It seems to me to be really destroying the whole Bill if you allow this state of things to continue, namely, that all the existing companies which are already incorporated will not be governed by this clause.

Sir H. P. Mody : They will have to have a resolution of the shareholders after 20 years.

Mr. M. A. Jinnah : But I may remind Sir Homi Mody that what we want to put an end to is this that even by resolution we do not want to allow this swindle to continue. We have given you a license for 20 years and you want again all sorts of forms of agreements which are nothing but swindles.

The Honourable Sir Nripendra Sircar : Under the Bill you cannot prevent that if the shareholders give it to them.

Mr. M. A. Jinnah : I say that if clause (1) stands with the amendment then the criterion will be remuneration on the basis of percentage of profit, and no other basis.

The Honourable Sir Nripendra Sircar : Except with the sanction of the shareholders.

Mr. M. A. Jinnah : That is clause (2), and I am objecting to clause (2). I am quite consistent in my position. I say I am against clause (2) and I want that the companies which are incorporated already should not be exempted from the operation of clause (1). And when we come to that clause (2) we shall see. But if Government wish to support this principle I submit that really this goes to the very root of it and the very basic principle of this Bill, and I really think.....

Mr. N. M. Joshi (Nominated Non-Official) : Then drop the Bill.

Sir H. P. Mody : We do not mind.

Mr. M. A. Jinnah : I know you do not mind swindling going further (laughter), but I hope Government will not be a party to this, and I hope that the Law Member, who has had so much dinned into his head by

these agents hovering round him, will not be misled and will not destroy the basic principles of this Bill. I appeal to Government not to take up this position but to accept the amendment.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I have received a message from His Excellency the Viceroy and Governor General as follows :

"In exercise of the power vested in me by sub-rule (2) of rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. Mohammad Ahmad Kazmi to move the adjournment of the House for the purpose of considering the 'failure of the Government of India to review their currency policy and keeping an appreciated value of the rupee in spite of the world-wide depreciation of the currencies, chiefly brought about by the decisions of the European States' on the ground that the motion cannot be moved without detriment to the public interest."

SIMLA,

(Sd.) LINLITHGOW,

The 30th September, 1936.

Viceroy and Governor General."

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, as President who controls the rights of this House, may I ask you a question whether the Governor General takes any note of the other side of the case ? One side goes and tells him that it cannot be moved without detriment to public interest. He has got the statutory right to disallow it, and he has to exercise that right in his discretion. May we request you to address the Governor General and tell him that he must hear the other side also, and not listen to one side only and pass *ex parte* orders ?

Mr. President (The Honourable Sir Abdur Rahim) : It is not my business to do anything of the sort at all.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Dr. Ziauddin Ahmad : Sir, the motion which is now before us appears to me to be a simple one. We have agreed, in spite of our wishes to the contrary, that the life of the managing agent should continue for 20 years and we have also agreed that we are not going to touch their contracts. But whenever any new managing agents are to be appointed, our appeal is that they should be governed by the new Act and not by the old Act.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, for the words 'Where any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, appoints a managing agent,' the words 'Where any company appoints a managing agent after the commencement of the Indian Companies (Amendment) Act, 1936,' be substituted."

The motion was adopted.

L346LAD

E

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, the words ‘ with provision for a minimum payment in the case of absence or inadequacy of profits ’ be omitted.”

This amendment, if accepted, will mean that a managing agent can be appointed by means of a prospectus only when the remuneration is payable to him on a percentage basis : and if he wants anything more than what he can get on the profits on this basis, he must obtain the consent of the company. That is the effect of the amendment that I am making. Sir, I think it is accepted by all that so far as possible the managing agent should receive his remuneration out of profits, and he should be able to so conduct his business that he may earn some profit for himself as well as for the shareholders.

As Honourable Members are aware, according to the original scheme of this Bill, all contracts relating to the appointment of managing agents were to be placed before the company for approval and acceptance, but the Select Committee has made a change in it ; and further according to the original scheme of the Bill the payment could not in any case be made otherwise than on the percentage basis, along with a minimum. But now, by introducing sub-clause (2) of 87C, it has been made possible for a company to grant remuneration even on the basis of sales, purchase and the like. I want the House to consider the whole of this case. Under the original Bill all agreements were to be placed before the company for acceptance. Now, it is not necessary to refer to the company at all where an appointment has been made by means of the articles of association or the prospectus : thus an entry in these documents by itself will in most cases be final on this subject : and whether the company agrees or not the appointment and remuneration entered in the prospectus and the articles of association will be binding on the company. I ask the House to remember whether we gain anything by having a clause of this nature. There is no standard prescribed here ; there is no limit prescribed here, as to what this minimum payment should be. There is no criterion for determining as to how this minimum amount should be fixed. When you have a provision like this it is assumed that the shareholders cannot ordinarily protect themselves fully and effectively : otherwise, there would be no occasion for any safeguard of this type. When you want a safeguard, the safeguard should carry some meaning and some purpose. It is no use providing a safeguard which is nothing if not futile. Let us see what can be done under this clause. Suppose, you start a company tomorrow with a lakh of rupees capital ; and the appointment is made by the prospectus. I may say that in most cases so far the managing agents had been usually appointed initially by means of the prospectus and the articles of association and that is in fact the perennial source of all this mischief and trouble. It remains intact even after this Act. Provided an entry has been made in the prospectus and articles of association you cannot in any way attack it. It is binding on all.

Now, let us look at this clause. It says that not only will payment be made at a fixed percentage of the net annual profits, but provision must also be made for a minimum payment in the case of absence or inadequacy of profits, together with an office allowance. I may give an illustration : suppose a company is formed with a capital of a lakh

of rupees and the managing agent enters in the prospectus that he will get remuneration at the rate of 15 per cent. on the profits, in addition, in case this 15 per cent. is not realised, he will get a minimum amount of Rs. 25,000 per year : thus he would receive this Rs. 25,000 in every case but if the 15 per cent. of profits yielded more than Rs. 25,000, he will get at the rate of 15 per cent. on the profits—there is nothing to prevent him entering even Rs. 50,000 in place of Rs. 25,000. It may be said “You knew it when you purchased the shares”. But if that is the argument, then have no clause at all. Give absolute freedom and leave the managing agent free to enter anything in the prospectus and as the shareholders go in for the shares with their eyes open let them suffer for their mistakes. But that assumption would knock the bottom of this Bill. It is accepted that the shareholder is not qualified to protect himself and that is why it is laid down here that there should be payment in this manner only. Again, if Honourable Members will be pleased to read this clause, they will find that it makes it compulsory for a company not only to grant remuneration on a percentage basis, but also to make a minimum payment. It should be compulsory, whether the managing agent wants it or not. Under the clause it is incumbent on him to provide that in case there is an inadequacy of profits or absence of profits, there must be a provision for a minimum payment. You will further find that there must be a provision for an office allowance. So, instead of improving things, to a certain extent you are further complicating them and making them worse. There are companies today where the remuneration is paid and payable only on a percentage basis on the total amount of net profit realised ; and there is no provision by way of any minimum payment in the case of absence or inadequacy of profits. But such companies are very few. Ordinarily where payment is made on a percentage basis, there is a minimum amount prescribed ; but still I know there are companies which do not make any provision for minimum payment. I know there are many more companies which either make provision for this minimum payment or for office allowance but not for both. Under this clause it is incumbent upon all these companies and all these managing agents to have remuneration firstly on a fixed percentage basis on the net annual profits, secondly, a provision for a minimum payment in the case of absence or inadequacy of profits and thirdly, an office allowance. All these three must be prescribed whether you will it or not. What I am suggesting is this : that while in every case the managing agent should be entitled to remuneration on the basis of profits earned, he should not get anything by way of a fixed sum except with the consent of the company. That will be the only effect of my amendment....

Sir H. P. Mody : Special resolution.

Pandit Govind Ballabh Pant : Special resolution or general resolution or ordinary resolution—that will be considered by the House later : but there is already a provision that it can be added to and remuneration in other forms sanctioned by means of a special resolution. Even a special resolution was considered to be worthless enough when we were considering the question of liquidation some time back on the ground that the shareholders can be hoodwinked even to pass a special resolution : so in this case one should not be afraid of a ‘special resolution’. But my difficulty has mainly arisen out of these two things : firstly, in

[Pandit Govind Ballabh Pant.]

the case of appointments made by means of prospectus, the shareholders and the company will have no say at all : and secondly, this clause makes it compulsory and obligatory on the managing agents and the company to have three forms of payment simultaneously at one and the same time. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, the words ‘ with provision for a minimum payment in the case of absence or inadequacy of profits ’ be omitted.”

The Honourable Sir Nripendra Sircar : I oppose this amendment. I think it is a most unreasonable one. My Honourable friend in his rather long discourse on protection and so on really wanted to make the point that the managing agents should go and that is at the back of his mind.

Pandit Govind Ballabh Pant : No. That is not at the back of my mind.

The Honourable Sir Nripendra Sircar : But he is forced by circumstances to allow this nuisance to continue, and that being so, my Honourable friend is finding out whether there are not indirect means of attaining that result.

Pandit Govind Ballabh Pant : That is wrong.

The Honourable Sir Nripendra Sircar : One can always make out a case by taking an extreme and absurd example.

Mr. S. Satyamurti : As you often do !

The Honourable Sir Nripendra Sircar : But less than you.

An Honourable Member : It is only a question of degree in that.

Mr. M. A. Jinnah : There is no much difference.

The Honourable Sir Nripendra Sircar : It is a matter of opinion. Where there is a will there is a way, and there is nothing to prevent your saying that the minimum payment will be eight annas per year. But if you take an absurd example, namely, where the capital is one lakh of rupees and the prospectus says that the minimum remuneration will be Rs. 90,000 and if still the shareholders will buy shares, that is a kind of case which I cannot imagine. My Honourable friend thinks that a special resolution is a very small matter.

Pandit Govind Ballabh Pant : I do not think so. I said that it was considered by you to be so. When you talked of winding up you indicated that a special resolution did not matter much.

The Honourable Sir Nripendra Sircar : Special resolution has a definite meaning as defined here, and surely it is not in the scheme that in matters of this kind there should be a special resolution. What is the objection to having a provision for minimum payment made ? It is not the idea that the managing agent should have no minimum payment. Is he to go on for five or ten years until there is profit, and is he to bear all the expenses ? Why should he be compelled to come to

the shareholders with a special resolution ? Sir, it is like the system of Chinese doctors. You won't get anything until you can cure ; no cure no pay. But that won't be applicable to business.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : They do not pay when they are ill. They pay when they are well. (Laughter.)

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division : Muhammadan Rural) : They hang the doctor when the patient dies. (Laughter.)

The Honourable Sir Nripendra Sircar : I submit, Sir, that there is nothing inequitable or unreasonable in making the provision which we have done, namely, a provision for a minimum payment in case of absence or inadequacy of profits. Sir, I oppose the amendment.

Mr. Husenbhai Abdullabhai Laljee : I rise to oppose the amendment which has been moved by my Honourable friend, Pandit Govind Ballabh Pant. I have always listened very carefully to what my Honourable friend has to say, and I must say that many a time, even on this Companies Bill, many of his suggestions are really very good, but in the case of this amendment I do feel that perhaps he has been carried away by the feeling that the managing agent should be done away with anyhow. His own view has been, and I quite agree with him, that there should be a managing director if we could afford to have one and if we could find the money for the managing director. But I ask my Honourable friend, in all fairness, whether he could have a managing director without any pay. He wants the managing agents to serve without any pay ; in fact, he said that three kinds of payment are going to be made to them. One is commission on profits. Well, Sir, commission on profits means actual working and showing good results. Then he says, office allowance. A company cannot go on without an office allowance. Should the managing agent maintain the office ? It is a bare necessity and ought to be there. What is the third ? A minimum amount may be given to him. Even a *patawala* cannot work without any remuneration. Surely, a partner of a managing agency firm has got to meet his family expenses.

Sir H. P. Mody : Managing agents have no business to have a family ! (Laughter.)

Mr. Husenbhai Abdullabhai Laljee : I am very sorry that a great deal has been said in this House against the managing agent. As I said the other day, most of our companies, in fact, each and every important industrial company that has been established has been established by the managing agency system. It has also been said often and often again that the managing agency system has to remain so long as the banking system that prevails in our country will exist. It is also a fact that most of the shareholders have come in and become shareholders, because they found solvent managing agents. Therefore, to blame the managing agents in season and out of season and for everything is not at all fair. Take the instance of Bombay. You have got only 80 spinning and weaving mills in Bombay and the managing agents will be about 80 persons. Everybody says that Bombay is rich and Calcutta is rich. Why ? Because of the industries. Is it because 60 firms only are making money and nobody else ? There are 15 lakhs of people in

[Mr. Husenbhai Abdullabhai Laljee.]

Calcutta and another 15 lakhs in Bombay, and it has been said that the Calcutta people are rich and that the Bombay people are rich. It is because the industries prosper, and as a result of it, not only the managing agents, but the doctors, the lawyers, the shareholders and everybody else, and last but not least the labour—all prosper.

Dr. G. V. Deshmukh : Joint families also !

Mr. Husenbhai Abdullabhai Laljee : Certainly. What will be in future in this. The present routine has been that when the managing agents float a company they do not take any lump sum for themselves for placing before the public their schemes. Ordinarily, what will happen ? The big technical experts or some big persons, say managing agents would come forward and say that they want to float a company for such and such an object—a company for 15 lakhs, but for their services to float the company and to bring forward their scheme they would take 3 or 4 lakhs outright, and then they will say they are satisfied with 20 or 30 thousand a year and that will be taken to be quite all right. But if a managing agent—and that has been the fact so far as Bombay is concerned because none of the textile managing agents have taken any profit for floating a textile mill. They have certainly provided a very fine process of getting sufficient profits, but that is divided into 20 or 30 years, and if the company did go for 20 or 30 years, they may get at the end of it about the same. But at the beginning they get nothing. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, the words ‘ with provision for a minimum payment in the case of absence or inadequacy of profits ’ be omitted.”

The motion was negatived.

Mr. S. Satyamurti : Sir, I move :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, the words ‘ or inadequacy of ’ be omitted.”

I will not repeat the arguments of my Honourable friend, the Deputy Leader of the Congress Party, but I am sure the Honourable the Law Member will see that the word “ inadequacy ” is incapable of definition. If these words remain here, how are they to be interpreted ? What is to be the test ? It seems to me that it will give rise to grave disputes and possibly inevitable litigation. I can understand the House having rejected amendment No. 77, the word “ absence ” must remain there. There is a case for some payment if there are no profits, but it seems to me to keep the word “ inadequacy ” is doing no service to the companies or the shareholders.

Sir H. P. Mody : What will be the effect if the words are dropped out ?

Mr. S. Satyamurti :

“ The remuneration of the managing agent shall be a sum based on a fixed percentage of the net annual profits of the company, with provision for a minimum payment in the case of absence of profits.”

Mr. M. A. Jinnah : Suppose there is a profit of one rupee.

Mr. S. Satyamurti : Why should a company pay a managing agent, if he cannot earn for the company more than a profit of one rupee? We all seem to think that managing agents are paragons of virtue and efficiency and that whatever they touch becomes gold like Midas' touch. Then I want them to have faith in themselves. Why this perpetual anxiety to vote for payment even when there is inadequacy of profit? Moreover, they can always go and get a special resolution, if they think that their remuneration is not adequate. Why should the company be compelled by statute to make a provision for a minimum payment even in the case of inadequacy of profit? I trust the Law Member will see the reasonableness of the amendment and accept it. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, the words ‘ or inadequacy of ’ be omitted.”

The Honourable Sir Nripendra Sircar : The question has been raised as to what is meant by “ inadequacy ”. The idea is this. Supposing the prospectus says that the commission will be 3 per cent. on net profits and the minimum amount is Rs. 5,000 a year, then what is meant by inadequacy is that up to Rs. 4,999 it is inadequate. My friend's point is why should a managing agent charge anything if there is no profit. My friend's idea is that the moment a company is started it must make lakhs and lakhs as profits and if it does not make, the managing agent is either incompetent or dishonest. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87C, the words ‘ or inadequacy of ’ be omitted.”

The motion was negatived.

Pandit Sri Krishna Dutta Paliwal : Sir, I move :

“ That in clause 42 of the Bill, the proviso to sub-section (1) of the proposed section 87C be omitted.”

All the arguments used in favour of my amendment No. 65 are also applicable to this and as I understand that the Honourable the Law Member is prepared to accept this amendment, I shall not make a speech. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, the proviso to sub-section (1) of the proposed section 87C be omitted.”

The Honourable Sir Nripendra Sircar : I accept this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, the proviso to sub-section (1) of the proposed section 87C be omitted.”

The motion was adopted.

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 42 of the Bill, after sub-section (2) of the proposed section 87C, the following new sub-section and the proviso be inserted and the subsequent sub-sections be re-numbered accordingly :

“(3) No managing agent shall receive anything additional to the remuneration fixed under sub-section (1) or sub-section (2), whether by way of commission, allowance or otherwise, for the services rendered by him to the company whether in the form of supply, sale or purchase of machinery stores, raw materials and manufactured goods or otherwise :

Provided that nothing herein contained shall prejudice his right to interest or dividend for loans, shares, debentures and other investments ’.”

I do not propose to make a speech on this amendment. I should like to disabuse the Honourable Law Member and other Members of the House of the notion that I do not want the managing agents at all. If I didn't, I would frankly say so. They may tell me that the conditions which I am proposing make it impossible for them to entertain the prospect of having managing agents. But I am more hopeful than they are, perhaps less wise. I accept both changes. The definition of a managing agent is a person who is in charge of the management of the whole affairs of a company. Now, you have clauses (1) and (2) which prescribe the remuneration which a managing agent should get. There will be no meaning in having provisions of this type if he is allowed to make profits otherwise. I will not refer to the evil of allowing the managing agents to do the work of purchase or sale of raw materials, machinery and other things. My suggestion is in accordance with the Indian Contract Act, that wherever a manager or other person in charge of a business as an agent earns any profit while transacting that business, the benefit should go to his principal. So when the managing agents, who will always be in charge of the whole of the affairs of the company, have been guaranteed an adequate remuneration by law in these various forms, it is really improper to leave the agents free to derive further profit by other dubious and indirect means.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after sub-section (2) of the proposed section 87C, the following new sub-section and the proviso be inserted and the subsequent sub-sections be re-numbered accordingly :

“(3) No managing agent shall receive anything additional to the remuneration fixed under sub-section (1) or sub-section (2), whether by way of commission, allowance or otherwise, for the services rendered by him to the company whether in the form of supply, sale or purchase of machinery stores, raw materials and manufactured goods or otherwise :

Provided that nothing herein contained shall prejudice his right to interest or dividend for loans, shares, debentures and other investments ’.”

Sir H. P. Mody : What happens to my amendment No. 2 on Supplementary List No. 5 which deals with the contracts of managing agents with their companies ? My submission is this that, if this amendment is decided upon now, the Honourable the Mover will be able to torpedo my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : It is not possible in a Bill like this to move all the amendments. The Honourable

Member can find out if this is a much more desirable amendment for the House than the others.

Sir H. P. Mody : Then I oppose the amendment. Sir, this is a very ingenious way of short-circuiting my amendment.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : On a point of order, Sir. I want to bring to your notice that I have an amendment similar to No. 86 ; I want your ruling whether I can move it.

Mr. President (The Honourable Sir Abdur Rahim) : I am afraid that is not possible.

Sir H. P. Mody : Sir, I oppose this amendment. As I was saying my Honourable friend in tacking it on to section 87-D is trying to short-circuit my amendment.

Pandit Govind Ballabh Pant : I was mortally afraid of your amendment.

Sir H. P. Mody : There was no valid reason whatsoever advanced by my Honourable friend for putting forward the suggestion that when a managing agent performs certain services to the company, he should not be remunerated.

Mr. S. Satyamurti : What is he paid for, otherwise ?

Sir H. P. Mody : He is paid for a lot of things (Laughter) and the object of my Honourable friends is to relieve him of even the few loose coins that are left in his pocket. They have done away with all other additional forms of remuneration and, flushed with their victory, they are now seeking to deprive the managing agent of every form of legitimate remuneration. A managing agent, Sir, may have a stores agency. He may have a machinery agency. He maintains an office for the purpose of conducting such agencies. He supplies machinery to the company. In many cases it is impossible for the company to obtain the same machinery from any other quarter. There are cases like that. For instance, there is a firm in Bombay. (*An Honourable Member* : "of undertakers ?") The undertaker would presently have to be called in if my Honourable friend had their way here. I say, Sir, that if my Honourable friend concedes that a managing agent has a right to enter into a contract with a company, then it is most unreasonable to contend that when these services have been rendered they should not be remunerated. Somehow or other he sees visions of all manner of unscrupulous people trying to rob the companies. I do not know where my friend derives his experiences from. We know something about managing agents, and while we are not here to stand up for each and every managing agent I say without fear of contradiction that managing agents generally perform their duties honestly and efficiently. (*Voices* : "Question, question.") I strongly oppose any idea of trying to deprive managing agents of the remuneration that is justly due to them for services which they have properly rendered to companies.

Mr. M. S. Aney : I would just like to inquire from my friend, Pandit Govind Ballabh Pant, as to what are the other sources, which he has in contemplation, left out of which the managing agent can take advantage under sub-clause (2) of this clause if his amendment

[Mr. M. S. Aney.]

is accepted. Why should not my friend move a straight amendment, for the deletion of sub-clause (2)? Because what I find is this. Under sub-section (2), "any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company unless sanctioned by a special resolution of the company". Now if the sources which the managing agent can tap are taken away, are there any other sources left of which he can take advantage by way of additional remuneration, in sub-section (2)?

Pandit Govind Ballabh Pant : Sir, I think my Honourable friend has not closely examined the wording of my amendment. I have no objection to sub-clause (2) if the managing agent is given, by way of and in the form of his remuneration, something on the articles turned out by the company itself, so long as it is remuneration. Whatever be the basis on which that remuneration is calculated. I have no quarrel with that. If a company decides that the managing agent will get a commission at the rate of three pies per rupee on the output of the factory by way of his remuneration, I have no quarrel with that. It will come in under sub-clause (2). But where, in addition to this remuneration, the managing agent says : "I will sell the goods and for that get an extra commission of one or two pies or I will introduce machinery and get an extra commission on that". then it should be disallowed. The managing agent is appointed to manage the affairs of the company and it is part of his business to look after all these things.

The Honourable Sir Nripendra Sircar : Sir, I do think my Honourable friend, Pandit Govind Ballabh Pant, has not quite answered the question put by my Honourable friend, Mr. Aney. Put shortly, it is this. Under paragraph 2 of 87-C, a managing agent can get anything he likes as remuneration :

"Any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company unless sanctioned by a special resolution of the company."

Therefore, there is nothing left ; what source is left which will be tapped? I say nothing can be done under 87-C (2). There is no magic in the word "remuneration" ; if he gets 2 per cent. on sales, and 5 or 10 per cent. on production, and so on, theoretically that is permissible in paragraph 2, because "any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company"—of course a special resolution has got to be passed. That being so, what is the object of this amendment,—that no managing agent should receive anything additional to what is given by sub-section (2). What is that "additional" thing? That was the question of my Honourable friend, Mr. Aney, and I think, with great respect to my Honourable friend, Pandit Govind Ballabh Pant, that point has not really been answered by him. The only other point I desire to point out is this. Is it really suggested that under this amendment as regards the managing agent who guarantees loans, as we all know that they do and gets a commission for that guarantee of say one per cent., is that going to be stopped?

Mr. Akhil Chandra Datta : There is the proviso.

The Honourable Sir Nripendra Sircar : No, Sir : " Provided that nothing herein contained shall prejudice his right to interest or dividend for loans, shares, debentures and other investments "—how does that work with " guaranteeing loans ", so that he is expected to guarantee these loans, but he cannot get any remuneration for that.

Pandit Govind Ballabh Pant : Do managing agents get anything for that ?

The Honourable Sir Nripendra Sircar : Very often they do ; they charge a commission for the guarantor's commission.

Mr. Bhulabhai J. Desai : I have not yet known of any such case.

The Honourable Sir Nripendra Sircar : I have known of many.

Mr. Bhulabhai J. Desai : Probably Calcutta is much more advanced.

The Honourable Sir Nripendra Sircar : It may be Bombay is more philanthropic and does not charge anything. It is quite possible. However, I do not want to take the further time of the House.

Pandit Govind Ballabh Pant : In regard to the financing of these concerns by the managing agents, I never thought that they had been charging any commission for that ?

The Honourable Sir Nripendra Sircar : That shows that there is at least something which my friend does not know. Sir, I oppose this amendment.

Mr. M. Ananthasayanam Ayyangar : Sir, I rise to support the amendment moved by Pandit Govind Ballabh Pant and I shall try my best to answer what my friend Panditji has not been able to answer. Under this amendment both the clauses (1) and (2) stand, though it is said that he is trying to take away both these clauses. Additional remuneration is also sought to be given. But what he said was that his amendment covers all the different avenues by which he can get commission. So far as I am able to understand, if a managing agent underwrites a number of shares and gets a commission, this amendment will not stand in his way for it is not the sale of goods.

The Honourable Sir Nripendra Sircar : But look at the word ' otherwise ' : it ropes in everything.

Mr. M. Ananthasayanam Ayyangar : I do not know how far the construction of ' otherwise ' can be applied to things which happened previously. So far as I can understand it, the word ' otherwise ' cannot relate to anything which is not contemplated in the previous portion. In the earlier portion there is a fixed percentage that is sought to be given. If large profits are earned, the company by a special resolution may resolve to give the managing agent bonus for the excellent work that he has done. Therefore, this amendment seeks to restrict his remuneration for what he ought to do in the ordinary course of his duties. I put a question both to the Honourable the Leader of the House and to my Honourable friend, Sir Homi Mody, why is it that this fixed percentage is guaranteed to him under clause (1) ? What is the work he does to earn it ? If he enters into a contract for the purchase of an article which is necessary for the prosperity of the company, why should he be paid ?

The Honourable Sir Nripendra Sircar : He is paid for his additional troubles.

Mr. M. Ananthasayanam Ayyangar : Then it comes to this that for no troubles he gets a fixed percentage and for his troubles he gets something else.

The Honourable Sir Nripendra Sircar : Those are other troubles.

Mr. M. Ananthasayanam Ayyangar : What are the other troubles ?

The Honourable Sir Nripendra Sircar : That you will know when you run a business.

Mr. M. Ananthasayanam Ayyangar : I would therefore say that it is a question of finance. We have repeatedly heard that the managing agent is there either on account of his technical skill, or, more often, for the finances that would flow into the concern because of his presence. If the managing agent has got no financial stability, no bank will ordinarily lend money to that company. If that is the position why has he been given 20 years for the past and 20 years for the future, when the fixed percentage is there ? And if there are profits, he gets something more than his usual commission. Under clause (2) not only does he get the fixed percentage but this percentage can also be increased. What my Honourable friend, Pandit Govind Ballabh Pant, seeks to provide against by his amendment is that these managing agents ought not to get all sorts of commissions on sales and purchases, which are a necessary part of any company. I would, therefore, say, that what is sought to be prevented by an earlier portion of the Bill, that is, restricting the percentage to sales, will be undone, if this amendment is not there. If this amendment is not accepted, it would open the door for many undesirable things which we have been anxious to stop. I would, therefore, request the House to accept this amendment.

Mr. M. A. Jinnah : Sir, I regret very much indeed that my friend, Pandit Govind Ballabh Pant, should have dropped his amendment No. 85. It would have been more logical so far as this particular question is concerned. Anyhow, it is no more in my hands now to speak on that because it has not been moved. The question before the House, as I understand it, is this. We are assuming now that clauses (1) and (2) of 87-C are strictly confined to the remuneration for agents as such, but the agents may supply materials to the company. The agents may purchase goods on behalf of the company : the agents may sell goods on behalf of the company. And what is now sought to be done is that they should not get any extra remuneration for those purposes. That, I understand, is the object of this amendment. Now, on this question it will certainly create a deadlock of a very serious character if you prevent the agents from selling, purchasing or supplying as any other outsider might do. The amendment that is tabled says that he should not be allowed to do it at all and he should not get a remuneration. But who is going to do it for you for nothing ? That is absurd. It really means that he should not be allowed to do it. If he has got to buy anything, if he wants supply of raw materials or sell anything, he must go to an outsider. Therefore, you are stopping him from selling, purchasing and supplying any raw materials except through an outsider.

Mr. M. Ananthasayanam Ayyangar : He will be dismissed if he does not do it.

Mr. M. A. Jinnah : The Honourable Member does not really appreciate how the business is done. You must remember this. Supposing stores are to be purchased and supposing the managing agent is also dealing in stores. If he can supply the stores to the company at reasonable rates, why should he not ?

Mr. M. Ananthasayanam Ayyangar : There is no quarrel about that. But he cannot, in addition, receive an allowance. He gets his price for the articles he sells to the company.

Mr. M. A. Jinnah : May I read the amendment ? What about his profits :

“ No managing agent shall receive anything additional to the remuneration fixed under sub-section (1) or sub-section (2), whether by way of commission, allowance or otherwise.....”

Then, he is not to make any profit when he supplies goods to the company, and if he is making a profit, it will come under the word ‘ otherwise ’. I am entirely in sympathy with the idea that there should be some check because we have known many cases where a great deal of *golmal* has been done. I know it. But the question is how to prevent it. I was trying to put it fairly to the House that this amendment means a complete stoppage on the part of the managing agents to do these things. There is another amendment which says that the managing agent can do it provided he gets the sanction of the shareholders in a meeting. There is a third amendment which says—the one about which my Honourable friend, Sir H. P. Mody, was very anxious—that it can be done provided it is sanctioned by the board of directors. There is a fourth amendment which says it can be done with the sanction of the directors provided they unanimously approve of it. Now, these are the four points which emerge, as far as I can gather from these various amendments. With all the desire, with all the sympathy that I have for the shareholders and the interests of the shareholders, I regret to say that I cannot possibly agree with my Honourable friend, Pandit Govind Ballabh Pant, on this amendment. But when we come to discuss the other amendments, we shall see.

Pandit Govind Ballabh Pant : Then, I will agree with you.

Mr. S. Satyamurti : Sir, the managing agents are the luckiest persons in the world. We began in the discussion on this Bill with the Honourable the Law Member making a very good speech against the managing agents and their abuses, but gradually I have seen him take the position that almost any amendment which will rob the edge of these clauses is acceptable. But the greatest shock of mine during the discussion of this Bill was that the Leader of the Independent Party who, I thought, was the sworn enemy of managing agents take up the position.....

Mr. M. A. Jinnah : I am not. I may tell the Honourable Member what I am. I am the sworn enemy of the managing agents who are dishonest, but I must say this that there are managing agents who are not dishonest.

Mr. S. Satyamurti : Sir, we are legislating for all managing agents, honest and dishonest ; and I have yet to learn that, in any legislation, we can distinguish between one set and another set. Your legislation must be so comprehensive and so complete, as to affect all managing agents, dishonest adversely, and honest not adversely. That is the test. Therefore,

[Mr. S. Satyamurti.]

when you want to provide by this amendment that there shall be no commission or allowance on purchase and sales, we are thinking of the dishonest managing agent. As for the honest managing agent, there is no need for any legislation at all. If everybody is honest, let us wind up our show. The point I want to make is this : why should a managing agent buy his own goods and sell his own goods and thereby make a profit which he may not otherwise have made ? No man ought to combine in himself two functions. By all means, let the managing agent purchase from the outside market, and let him sell to the outside market ; but let him not make a profit. The principle is that no man ought to be in a position where his duty and his interest are likely to come into conflict. The managing agent practically sells to himself or buys for himself, for, for all practical purposes, he is the company. If he charges a commission on purchase and sales, it will give rise to serious and grave abuses. I do hope the House will not spoil the effect of this Bill in trying to cure the abuses, and I hope the House will accept a reasonable amendment, like the present one.

Sir Cowasji Jehangir : Sir, I had no intention of speaking on this amendment because I thought that its impracticability was perfectly clear to my Honourable friends. But my Honourable friend, Mr. Satyamurti, has tempted me to say a few words. Now, Sir, the position is that managing agents do sell certain commodities to the companies of which they are the managing agents. If they take a moderate commission it is all to the advantage of the company. But how are you going to prevent managing agents from buying goods from outsiders, and keeping secretly a large amount of profit ? That is what you have got to stop, if you can. That is what is happening. If a managing agent is also the agent for certain machinery, it is more than likely that he will sell that machinery at a very reasonable commission to the company of which he is the managing agent. But there have been cases where the managing agents have bought machinery from outsiders, keeping very large profit for themselves. There is no use trying to be very particular in trying to obviate dishonesty while leaving such large loopholes for dishonesty all round. By trying to stop dishonesty in the abstract, you are making the whole thing impracticable. This is one instance where the whole business of the managing agents can be made impracticable by comprehensive theoretical prohibitions while large loopholes are left for the managing agents to rob from 50 per cent. to 70 per cent.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after sub-section (2) of the proposed section 87C, the following new sub-section and the proviso be inserted and the subsequent sub-sections be re-numbered accordingly :

‘ (3) No managing agent shall receive anything additional to the remuneration fixed under sub-section (1) or sub-section (2), whether by way of commission, allowance or otherwise, for the services rendered by him to the company whether in the form of supply, sale or purchase of machinery stores, raw materials and manufactured goods or otherwise :

Provided that nothing herein contained shall prejudice his right to interest or dividend for loans, shares, debentures and other investments ’.”

The motion was negatived.

Babu Baijnath Bajoria : Sir, I beg to move :

“ That in clause 42 of the Bill, in sub-section (3) of the proposed section 87C, before the words ‘ loans and advances ’ the word ‘ debentures ’ be inserted.”

Sir, what my amendment seeks is that in calculating the net profits interest on debentures should also be deducted. I do not understand why a differentiation has been made between interest on loans and advances and interest on debentures. After all debentures are also advances to the company and the interest thereon should also be deducted before calculating the net profits of the company. This change has been made in the Bill by the Select Committee. If my recollection goes right, the word ‘ debentures ’ was there when the Bill was originally introduced. Sir, I do not want to make a long speech. I do hope the Honourable the Law Member will see the equity of my amendment and accept it.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (3) of the proposed section 87C, before the words ‘ loans and advances ’ the word ‘ debentures ’ be inserted.”

Mr. T. Chapman-Mortimer : Sir, I understand the reason why the Select Committee agreed that the word ‘ debentures ’ should not appear in this clause in the place where my Honourable friend, Babu Baijnath Bajoria, would like to have it was this : that in many companies, particularly for example, railway companies and some of the heavy industries, they have debentures, preferences and share capital in almost equal proportions ; especially for instance in railway companies, the debentures and the preference between them may come to more than or much more perhaps than the ordinary shares and it was to provide for cases like that that it was decided that debenture interest should not be taken into the account when calculating the net profits. I submit, Sir, that it is a perfectly reasonable point of view, which if it is not accepted may greatly inconvenience certain companies and I hope Honourable Members of this House will oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (3) of the proposed section 87C, before the words ‘ loans and advances ’ the word ‘ debentures ’ be inserted.”

The motion was negatived.

Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau; Indian Commerce) : Sir, I move :

“ That in clause 42 of the Bill, in sub-section (3) of the proposed section 87C, the word ‘ depreciation ’ be omitted.”

This clause refers to the calculation of profits and the remuneration of the managing agents to be calculated on that. There are several items which have got to be deducted according to this clause, while calculating the remuneration of the managing agent. In that depreciation is also included. What I want to point out is that in the present circumstances, considering the fast advancement of scientific research and the changes that are coming about in rapid succession, it will be necessary for any company to bring about a state of depreciation much more than what is generally provided for in these days. It was ascertained by no less a

[Mr. Mathuradas Vissanji.]

person than the President of the United States of America only about three years back by appointing a committee to ascertain the percentage of depreciation that should be necessarily included for the purpose of the accounts and the replacement of machinery in order to be able to compete in the world. That committee consisted of selected experts who went round the whole country, inquired into every industrial concern, and after due deliberation made a report that in present circumstances machinery becomes obsolete after three years. That means that it has got to be depreciated every year at nothing less than 33.1/3rd per cent. If that analogy is going to be applied for the successful running of a concern in India, you can very well imagine, Sir, what depreciation will have to be provided every year in every concern. And if that is done, what is the position of the managing agent for the remuneration that he has got to take for the conduct of his affairs? If he is only fair to the company he cannot be fair to himself. If it were only provided that for the purpose of calculation of the managing agent's remuneration the amount that is allowed by the law should be allowed, after income-tax of 4 per cent. for machinery and 2½ per cent. for the buildings, then it would be something reasonable as provided by the amendment of the European Group of this Assembly. But to simply do away with any rate of calculation and debar the managing agent from obtaining his dues on the depreciation is rather unjust as I feel it. Suppose a company is started hereafter for the purpose of supplying electricity. As it is generally known, electricity apparatus generally becomes obsolete after every five years, and if provision is not properly made for the depreciation every year, the company is really suffering. It will only lead to a rather dishonest method of calculation by the managing agent, if he is not honest to the company. Of course I remember that this is only applicable to companies to be established hereafter, and if this clause be made operative in this way I am afraid the future companies will be very well providing for remuneration in other ways, fearing what they will have to do for the depreciation. I recommend for that purpose that the word "depreciation" be omitted from the clause.

Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 42 of the Bill, in sub-section (3) of the proposed section 87C, the word 'depreciation' be omitted."

Sir Leslie Hudson (Bombay : European) : Sir, I wish to support this amendment. Whilst it is a fact that depreciation is looked upon by accountants in some instances as working expenses, there are many other instances where depreciation is not deducted for ascertaining profits. The section prescribes no limit to the depreciation and in our opinion if this amendment and the next but one are carried, it may lead to considerable embarrassment and controversy, and we wish to support this amendment. The section as framed would place it in the hands of the board to place such sums to depreciation as might, as my Honourable friend, Mr. Vissanji, said, whittle down the profits of the managing agents to such a sum as to be absurd. Sir, I support the amendment.

Mr. Husenbhai Abdullabhai Laljee : Sir, I rise to support the amendment and I will say only a few words. In sub-section (3), while defining the net profits, it has been stated that "after allowing for all the working charges, interest on loans and advances, repairs and outgoings". Now, Sir, in providing for all these, it is really in the interest of the shareholders because the managing agents will see that those charges are as much reduced as possible in order to enable the company to make some profit and some commission. With regard to "depreciation, bounties or subsidies", bounties and subsidies are not in the hands of the managing agents, but with regard to depreciation I say that in the interest of the company this item ought not to be left at the mercy of the managing agent at all. The managing agent ought not to decide or have an interested voice in deciding this factor, because it is very essential as my friend, the Honourable Mr. Mathuradas Vissanji, has pointed out, in these days that the machinery should be kept up to date and the latest improvements should be introduced and therefore depreciation plays important part. Many of our mills in Bombay have suffered because latest improvements have not been introduced. If once we allow a managing agent to get remuneration on the basis of allowing more or less depreciation, I think it will not be in the interests of shareholders. Therefore, I think this depreciation may be omitted; further in fixing the remuneration certainly it will be a matter between the shareholders and the managing agents and as suggested if depreciation is omitted they will take into consideration that the depreciation is not there. Sir, under the circumstances I support the amendment.

Dr. Ziauddin Ahmad : Sir, it is an entirely new principle that I have been hearing on the floor of this House. Whenever we discussed any measure—textile or any other protected industry—we were always told that depreciation must be included before the net profit is arrived at....

Mr. Husenbhai Abdullabhai Laljee : It must be : certainly before giving a dividend.

Dr. Ziauddin Ahmad : That is the principle to which we agreed. The only question was what should be the amount of depreciation. There are suggestions later on, but I think in many cases of machinery the depreciation should be from $7\frac{1}{2}$ to 10 per cent, depending on the nature of the machinery. But any suggestion which disregards depreciation in calculating net profits is a very novel principle and entirely opposed to what we have been discussing all along. Tariff Boards have allowed depreciation in their calculations. Therefore any suggestion that depreciation should be disregarded is in violation to all principles. Depreciation was one of the items, along with interest, working expenses, reserve fund, which was always calculated in arriving at the net profits. As I said, this is an entirely new principle, to what we were discussing when protected industries were being discussed on the floor of the House.

Mr. Bhulabhai J. Desai : Sir, in view of amendment No. 88, I oppose this amendment, amendment No. 87.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, in sub-section (3) of the proposed section 87C, the word 'depreciation' be omitted."

The motion was negatived.

L346LAD

F

Mr. Akhil Chandra Datta : Sir, I move :

“ That in clause 42 of the Bill, after the proposed section 87C, the following new section be inserted :

‘ 87CC. No Managing Agent shall receive any profit or remuneration whether by way of commission, allowance, percentage or otherwise for services rendered by him to the Company in the shape of supply, sale or purchase of machinery, stores, raw materials or manufactured goods provided that nothing herein contained shall affect the right of any Managing Agent to receive any profit or remuneration under any contract in force at the time of the commencement of the Indian Companies (Amendment) Act, 1936 ’.”....

The Honourable Sir Nripendra Sircar : Sir, I would like to raise a point of order. Is there any difference between amendment No. 86 and the one now being moved ?

Mr. Akhil Chandra Datta : Yes : there is a remarkable difference. That was wider than this : Pandit Govind Ballabh Pant's amendment made no provision for contracts. But my amendment says :

“ Provided nothing herein contained shall affect the right of any Managing Agent to receive any profit or remuneration under any contract in force at the time of the commencement of this Act.”

The Honourable Sir Nripendra Sircar : But the greater includes the less : does it not ?

Mr. Akhil Chandra Datta : Which is the greater ? My claim is less modest than the claim in the other amendment.

The Honourable Sir Nripendra Sircar : If I may point out, the other amendment also was in relation to new companies, because it was an amendment of 87C. There is no question of old managing agents being included by my Honourable friend, Mr. Pant's amendment. I am placing it before the President for his ruling. No. 86 which has been disposed of was—

“ in clause 42 of the Bill after sub-section (2) of the proposed section 87C.....”

As you will see from page 19 of the Bill, Sir, section 87C relates to companies incorporated after the commencement of the Indian Companies Act, 1936. I do not see what the difference is between the two. One seems to be substantially the same as the other. That is my submission.

Mr. Akhil Chandra Datta : The greater claim has been disallowed: mine is the lesser : but it goes a little further in favour of the managing agents.

Mr. President (The Honourable Sir Abdur Rahim) : I am afraid, I must rule that this amendment is out of order.

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87D, after the words ‘ managing agent of the company ’ the words ‘ or to any partner of the firm, if the managing agent is a firm, or to any director of the private company, if the managing agent is a private company ’ be inserted.”

This is a repetition of the hackneyed formula, so I need not say more.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87D, after the words ‘ managing agent of the company ’ the words ‘ or to any partner of the firm, if the managing agent is a firm, or to any director of the private company, if the managing agent is a private company ’ be inserted.”

Mr. T. Chapman-Mortimer : My Honourable friend, Pandit Govind Ballabh Pant, said that his amendment No. 95 is in substance really the same as has been adopted in other parts of the Bill. I submit that that is not so, and that if this amendment is put in here to sub-section (1) of section 87D, the effect may be most far-reaching and it may cause complications which can hardly at present be fully understood, and I trust that Honourable Members of this House will oppose it. Sub-section (1) of section 87D is as follows :

“ No company shall make to a managing agent of the company any loan out of moneys of the company.”

In sub-section (1) of section 2 of this Bill, we have already a definition of a managing agent. It is quite clearly laid down there what a managing agent is. In other sections we have provided safeguards to ensure that loans to directors are improper. If this amendment of my Honourable friend is carried, it will have much more far-reaching effect than we know of. How in actual fact it will affect us I cannot say. But I do hope that Honourable Members will believe that we have already got sufficient safeguards on that point. After all, it should be remembered that if there is any doubt on all these things it would always be possible for the company in general meeting to decide that certain individuals should represent the body of shareholders and examine the books of the company, and then they would be able to decide on the facts of the case whether section 87D (1) has been impinged in the spirit, if not in the letter. Sir, I oppose.

Dr. Ziauddin Ahmad : I thought that the amendment now before us is really an explanation of the provision already in the Bill. The Bill says :

“ No company shall make to a managing agent of the company any loan out of moneys of the company.”

That everybody admits, but if the managing agent is not an individual but a company, in that case the natural conclusion is that no person who is a partner of that company,—or as the amendment says, any partner of the firm if the managing agent is a firm, or any director of the private company, if the managing agent is a private company, should not be in a position to borrow money. That is really an explanation of the principle which we have already admitted and which is already in the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87D, after the words ‘ managing agent of the company ’ the words ‘ or to any partner of the firm, if the managing agent is a firm, or to any director of the private company, if the managing agent is a private company ’ be inserted.”

The motion was adopted.

Pandit Govind Ballabh Pant : I move :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87D, the words ‘ or guarantee any loan made to a Managing Agent ’ be added at the end.”

It follows the one which has just been accepted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87D, the words ‘ or guarantee any loan made to a Managing Agent ’ be added at the end.”

The motion was adopted.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : I move :

“ That in clause 42 of the Bill, sub-section (2) of the proposed section 87D, be re-numbered as sub-section (2) (a), and, after the sub-section, as so re-numbered, the following be added :

‘ (b) Where any credit is held by a managing agent in a current account maintained in pursuance of this sub-section the balance sheet of the company shall disclose particulars as to the maximum limit of such current account approved by the Board of Directors and the maximum amount of credit utilised by the managing agent during and the amount of credit outstanding at the end of the period to which the balance sheet relates.’ ”

This amendment aims at disclosure of particulars as to (i) the maximum limit of the current account approved by the directors, (ii) the maximum limit of credit utilised by the managing agent during the period to which the balance sheet relates, and (iii) the amount outstanding at the date of the balance sheet.

Sub-section (2) of section 87D authorises a managing agent to hold credit in a current account with the company and the limit of such credit is to be previously approved by the directors. In view of the fact that the limit is to be fixed by the directors it is but legitimate that shareholders should know the maximum limit of such credit in the current account. A credit held by a managing agent in a current account with his company is another form of a loan to the managing agent. It is, therefore, imperative that the amount of credit approved by the directors and the amount of credit utilised by the managing agent should be disclosed in the balance sheet so that the shareholders may be able to study the position with regard to the current account.

It might be argued that under the existing form of the balance sheet the amount due by the managing agent at the end of the year is required to be specifically disclosed. This is no doubt true, but it should be borne in mind that unless the amount of credit utilised by the managing agent is disclosed, transactions of a window-dressing character through the current account will not see the light of day. It may be that throughout the year the managing agent may remain indebted to the company but at the end in order to suppress the fact of his indebtedness in the current account he may square up the account and renew operations on the account next year. Such cases have occurred. The most classical illustration is that of the Indore Malwa United Mills, Ltd. whose managing agents borrowed lakhs of rupees from the company in current account, repaid them at the end of the accounting period and again borrowed in the next year. In this connection attention may be drawn to the following passage

in the report of Messrs. S. B. Billimoria and Co. who examined the accounts of the company :

“ Thus, throughout this long period, although colossal sums of money were withdrawn from the funds of the mills and utilised by the said firm for their private purposes, the shareholders and depositors were hoodwinked by being shown small credit balances at balance sheet periods, and the depositors and the shareholders were lulled into a hope of false security, with regard to the financial position of the mill company, as reflected in the published balance sheets.”

In short, it is with a view to check window-dressing methods that the amendment has become necessary. In this connection reference may also be made to section 128 of the English Companies Act which is as follows :

“(1) The accounts which in pursuance of this Act are to be laid before every company in general meeting shall, subject to provisions of this section, contain particulars showing—

(a) the amount of any loans which during the period to which the accounts relate have been made either by the company to any director or officer of the company, including any such loans which were repaid during the said period ; and

(b) the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof ;”

It will be seen from the above that not only the loans made to directors or officers are required to be disclosed but also disclosure is required of loans which were repaid during the account period. The latter requirement is most significant as proving the necessity of bringing to light window-dressing methods adopted in reference to loan transactions between a company and its directors or officers. The amendment proposed gives effect to the principle recognised by the English Act. The fact that our section refers to a current account should not make any difference in that as already stated above the credit held by a managing agent in a current account in essence amounts to a borrowing from the company and therefore a loan from the company to the managing agent.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, sub-section (2) of the proposed section 87D, be re-numbered as sub-section (2) (a), and, after the sub-section, as so re-numbered, the following be added :

“(b) Where any credit is held by a managing agent in a current account maintained in pursuance of this sub-section the balance sheet of the company shall disclose particulars as to the maximum limit of such current account approved by the Board of Directors and the maximum amount of credit utilised by the managing agent during and the amount of credit outstanding at the end of the period to which the balance sheet relates.”

The Honourable Sir Nripendra Sircar : I oppose this amendment and I shall put it very briefly indeed. From the point of view of outsiders I really object to more information about the financial operations of the company being broadcasted than is necessary. This amendment will mean a considerable addition to the information in the balance sheet but the point of view of the shareholders may be quite different. They are quite entitled to know what is happening between the directors and the company. For that reason we have now made Article 105 of

[Sir Nripendra Sircar.]

Table "A" compulsory so that it is quite open to them to pass a resolution to have an inspection of any of these three items. I submit that having regard to the compulsory inclusion of Article 105, it is unnecessary to load the balance sheet with information which may in some cases be useful but in other cases not desirable to disclose to the public.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, sub-section (2) of the proposed section 87D, be re-numbered as sub-section (2) (a), and, after the sub-section, as so re-numbered, the following be added :

'(b) Where any credit is held by a managing agent in a current account maintained in pursuance of this sub-section the balance sheet of the company shall disclose particulars as to the maximum limit of such current account approved by the Board of Directors and the maximum amount of credit utilised by the managing agent during and the amount of credit outstanding at the end of the period to which the balance sheet relates'."

The motion was negatived.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Sir, I move :

"That in clause 42 of the Bill, in sub-section (3) of the proposed section 87D, after the words 'making of the loan' the words 'or giving of the guarantee' be inserted."

This is only a consequential amendment. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 42 of the Bill, in sub-section (3) of the proposed section 87D, after the words 'making of the loan' the words 'or giving of the guarantee' be inserted."

The Honourable Sir Nripendra Sircar : I accept the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, in sub-section (3) of the proposed section 87D, after the words 'making of the loan' the words 'or giving of the guarantee' be inserted."

The motion was adopted.

Mr. T. S. Avinashilingam Chettiar : Sir, I move :

"That in clause 42 of the Bill, in sub-section (3) of the proposed section 87D, after the words 'repayment of the loan' the words 'or discharging the guarantee' be inserted."

This is also consequential.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 42 of the Bill, in sub-section (3) of the proposed section 87D, after the words 'repayment of the loan' the words 'or discharging the guarantee' be inserted."

The Honourable Sir Nripendra Sircar : I accept the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in sub-section (3) of the proposed section 87D, after the words ‘ repayment of the loan ’ the words ‘ or discharging the guarantee ’ be inserted.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

‘ (5) No managing agent, or where the managing agent is a firm a partner thereof, or where the managing agent is a private company any member or director thereof, or where the managing agent is a public company any director thereof, or the firm or private company of which the managing agent is a partner, member or director shall enter into any contract with the company for sale, purchase or supply of goods or materials except with the consent of the company in general meeting given generally or specifically :

Provided that nothing herein contained shall affect any contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936 ’.”

Sir, the object of my moving this amendment is that in the case of contracts for the sale and purchase of materials by the managing agent of a company greater safeguards should be imposed than those provided in the Bill. The safeguard under this amendment is that at an ordinary general meeting of the company the terms must be given for entering into such contracts either generally or specifically,—generally as regards the class of goods or with regard to any particular value or up to certain pecuniary limits, or specifically with respect to each item as and when articles are purchased or sold. As it stands, directors might not be in a position to check any onerous advantages or improper contracts entered into by the managing agent with the directors. Sir, the composition of directors is well-known ; one-third the managing agents are entitled to appoint. As regards the balance of the two-thirds, some of them may be appointed by a statutory body, some by an Indian State where that State takes shares ; in that case it is open to the latter to insist upon a particular number of directors being on the directorate. Then, debenture-holders appoint some of the directors. In practice, the shareholders' directors are reduced beyond even one-third. A provision has been made with respect to an earlier clause that one-third at least of the directorate should be persons elected by the shareholders. Now, therefore, if the entering into of a contract with the managing agency is left to the directorate two-thirds of which are practically the nominees of the managing agent, the mere majority of two-thirds might not be enough to check any disadvantages of a contract in the matter of the sale or purchase of goods entered into by the managing agent. There is thus absolutely no guarantee that the managing agent enters into a proper kind of contract. It is necessary with respect to all such sales or purchases that there should be an independent agency to see whether such sales are properly made and whether the commission is proper or not : and it is only for that, Sir, that I am trying to provide for a particular agency and that agency is the general body. The directorate, which contains the nominees of the managing agents, cannot be trusted

[Mr. M. Ananthasayanam Ayyangar.]

with this business and, therefore, in the best interests of the company itself, I say this amendment ought to be accepted.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

‘ (5) No managing agent, or where the managing agent is a firm a partner thereof, or where the managing agent is a private company any member or director thereof, or where the managing agent is a public company any director thereof, or the firm or private company of which the managing agent is a partner, member or director shall enter into any contract with the company for sale, purchase or supply of goods or materials except with the consent of the company in general meeting given generally or specifically :

Provided that nothing herein contained shall affect any contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936 ’.”

Sir H. P. Mody : Sir, my Honourable friend, Mr. Ayyangar, has put forward no justification in support of this very restrictive clause which he seeks to introduce. I say that it is illogical to ask the House to pass this amendment when the House only very recently accepted the position that a director could contract with the company, if he could get a resolution of the board of directors to support that transaction. I do not see why managing agents should be sought to be put upon an entirely different footing. Sir, even though my Honourable friend made as usual a forceful speech in support of his amendment, he does not seem to believe very much in it, as evidenced by the fact that there are various other amendments which he himself has tabled. He is obviously still trying to determine what is the right thing to do in this particular matter ! The Honourable Member has given seven choices. He started off with soup and then went on to fish and then, with the permission of the Chair he withdrew both the soup and the fish, and concentrated upon the joint ! As my Honourable friends will see, however, there is game also, and sweets and other things, and I am not sure what my Honourable friend wants this House to do. (*An Honourable Member* : Take the sausage.) I dislike ready-made things. What I was saying is that a managing agent—and I am sorry if I have to repeat some of the arguments that were advanced on a previous occasion—is from the very nature of things obliged to deal with his company. Supposing he has the agency of an insurance company or a machinery concern. There is no reason why, in such a case, he should go past his own agency. The amendment which I have tabled, and which unfortunately cannot come on just now because I have tacked it on to clause 87-H, provides what I regard is a safeguard which should be considered as sufficient in all cases. That safeguard is that where the managing agent enters into a contract with his company, he cannot do so unless the transaction has been approved of by the board of directors. A similar safeguard was accepted in respect of directors, and I submit that the same safeguard should be regarded as adequate even from the point of view of my Honourable friend, Mr. Ayyangar. Sir, I oppose the amendment.

Mr. F. E. James : Sir, I find myself in the unusual position of agreeing with my Honourable friend, Sir Homi Mody. I oppose this amendment,—in fact all my Honourable friend's amendments with a repugnance which only varies in degree. I do not think the House should have anything to do with any of them. There are many cases where the managing agent is in a position to sell to his company products which the company cannot get elsewhere, either of the same quality or of the same or cheaper price or on as favourable terms ; and there are cases where a particular commodity which is sought to be purchased cannot be obtained from any other company. It has been pointed out on a previous occasion that the cases where managing agents sell to their companies on very favourable terms are not at all exceptional. In fact, quite recently I happened to see the prospectus of the Star Paper Mills Limited in which the promoter, Mr. Baijnath Bajoria, who is also a director and one of the managing agents, offered to supply raw material to the company at the low market rates. If our restriction is put upon that kind of transaction, surely it will be to the detriment of the company concerned. The restrictions that all these amendments seek in varying degrees to place upon freedom of trade in this matter would not only deprive the existing companies of the facilities which they at present have but would, I suggest, in some cases lead to all kinds of devices for getting round these restrictions. I am not at all sure that in the particular amendment which my Honourable friend appears to be concentrating on he is not opening the door to a very great deal of speculation, if not corruption. The managing agent who has to go to his shareholders for permission to enter into certain contracts with the company for sale or purchase or supply of goods may be in a position to influence those shareholders by all sorts of methods ; and, rather than restricting the evil, this particular amendment runs the risk of very largely increasing the field for the operation of the evil he is trying to stop. I would point out to my Honourable friend and to the House that under sections 91-A and 91-B of the Act, the managing agent's director is precluded from voting in connection with a contract in which he is interested. He is also obliged to disclose what particular interest he has. Under clause 45 (a) of the Bill he cannot even be counted for the purpose of forming a quorum at a meeting in which this matter is discussed. Then the company also has the ordinary protection which is afforded by the Indian Contract Act against abuses of the nature which my Honourable friend has in mind. I do suggest that the provisions already in the Act, as amended, so far by the Bill, do safeguard the shareholders against the possibility of any misuse of his powers.

Mr. M. A. Jinnah : What are those safeguards in the Bill ?

Mr. F. E. James : I have already mentioned them but at the risk of repeating myself I will mention them again. In the first place, I will read out from the Bill itself. By section 91-A and section 91-B of the Act, as now amended, the managing agent's director is precluded from voting and is obliged to disclose his interests. These sections correspond to clauses 44 and 45 of the Bill. Under clause 45 (a) of the Bill, which is section 91-B of the old Act, he cannot count for the purpose of forming a quorum at a meeting where this matter is discussed. And then there is, of course, as far as the directors are concerned, a register which is provided for in a new sub-section (3) of

[Mr. F. E. James.]

91-A of the Act. My point is this that there is such a thing as driving a good case too far. We on these benches have never been opposed to the imposition of reasonable safeguards upon the directors and managing agents in regard to these matters. We have never been opposed to the fullest disclosure of all contracts in which either the directors or the managing agents are interested. What we do oppose and shall always oppose throughout this Bill is any provision which would have, as its effect, any restriction or restraint.....

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member cannot finish in one or two minutes, I think he had better continue to-morrow.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 1st October, 1936.

LEGISLATIVE ASSEMBLY.

Thursday, 1st October, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock,
Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

QUESTIONS AND ANSWERS.

ASSISTANCE GIVEN BY INCOME-TAX OFFICERS TO INCOME-TAX COMMISSIONERS IN CASES OF APPEAL IN OPEN COURTS.

744. *Mr. Sri Prakasa : (a) Are Government aware that it is irksome to the income-tax officers and embarrassing to the assessee when in cases of appeal, the Income-tax Commissioners call Income-tax Officers openly in court to assist them ?

(b) Have Government received any complaints against the system of the Income-tax Office being a complete department in itself, in which the assessments are made and appeals disposed of without the intervention of third parties ?

(c) Are Government aware that a reference to the High Court, as permitted by law, can in the nature of things be resorted to only in very special cases and by very few individuals ?

(d) Are Government aware that there is a widespread feeling that this system does not conduce to proper justice being meted out to persons dissatisfied with their assessment of income-tax, and that this system has made most Income-tax Officers irresponsible and autocratic ?

(e) Are Government prepared to consider the desirability of introducing the system of appeal outside the Income-tax Department ?

The Honourable Sir James Grigg : Complaints of the nature indicated in the first four parts of the question have been received from the public. The whole subject is at present under the examination of the Expert Advisers to the Government of India on Income-tax matters.

DEMAND MADE BY THE RESERVE BANK OF INDIA ON SCHEDULED BANKS.

745. *Mr. Sri Prakasa : (a) Is it a fact that the Reserve Bank is authorized to demand about 2½ (two and a half) lacs of rupees from each of the banks which Government have declared as scheduled banks ?

(b) Does the Reserve Bank pay any interest on these sums ?

(c) What facilities, if any, does the Reserve Bank offer to scheduled banks whose money it keeps ?

(2155)

(d) Are Government prepared to take steps to see that a reasonable interest is paid by the Reserve Bank to scheduled banks for such money ?

The Honourable Sir James Grigg : (a), (b) and (d). I would invite the attention of the Honourable Member to section 42 and to sub-section (6) of section 19 of the Reserve Bank of India Act.

(c) I would invite the attention of the Honourable Member to the reply given by me to Mr. Satyamurti's starred question No. 155 in the current Session.

Mr. Sri Prakasa : I am sorry I could not catch the Honourable Member's answer to clause (d) of the question. Will he kindly repeat it ?

The Honourable Sir James Grigg : I referred the Honourable Member to certain sections of the Reserve Bank Act, but I can elaborate a little if the Honourable Member so desires. These compulsory deposits free of interest are intended to provide the remuneration of the Reserve Bank for the services it renders to the market, and I should be deceiving him if I held out any hope whatever that the Government would be prepared to ask them to pay interest.

Mr. Sri Prakasa : Do Government realise that it is very hard for comparatively small banks, with paid up capital of only 10 lakhs or so, to pay dividends to shareholders and interest to depositors when they have to deposit as much as 2½ lakhs in the Reserve Bank without any interest at all ?

The Honourable Sir James Grigg : If the Honourable Member would work out the interest at short term rates on 2½ lakhs, I think he will see that it won't make a great deal of difference to the banks.

Mr. Sri Prakasa : May I trouble the Honourable Member once more to repeat his answer to clause (c) ? I could not catch that either.

The Honourable Sir James Grigg : I referred to a previous answer which I gave to question No. 155 put by Mr. Satyamurti.

CONSTRUCTION OF COVERED PLATFORMS ON THE BENARES CANTONMENT RAILWAY STATION.

746. ***Mr. Sri Prakasa :** (a) Are Government aware that it was raining very hard when the Viceroy last alighted at the Benares Cantonment Railway Station ?

(b) Is it a fact that he and his party and His Highness the Maharaja of Benares and high local officials who had gone to receive him, were put to great inconvenience because of lack of properly covered platforms ?

(c) In view of the importance of the Benares Cantonment Railway Station and the inconvenience caused to high and humble alike, are Government prepared to order that both the platforms be properly and fully covered ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) Some inconvenience resulted.

(c) This is a matter within the competence of the Railway Administration, whom the Government of India consider to be in the best

position to judge of the relative importance of the proposed expenditure.

Mr. Sri Prakasa : In view of the fact that the Benares Cantonment Railway Station is an important station, and further in view of the fact that the Railway are actually extending the covered portion of the platform, will Government advise the authorities to expedite matters and cover the whole platform or at least a hundred more feet in order to cover the exit and entrance, within a reasonable period of time ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Pandit Lakshmi Kanta Maitra : May I know, Sir, if it is the position of the Government of India that even in such important matters the Government of India cannot interfere ?

The Honourable Sir Muhammad Zafrullah Khan : It is not a question of Government of India being unwilling to interfere. I have tried to explain in answer to part (c) of the question that in these matters the administration must decide the relative priority of the works which require their attention.

Pandit Lakshmi Kanta Maitra : In view of the fact that it is a State-managed Railway, and in view also of the fact that pilgrims all the year round go to Benares in large numbers and great inconvenience is caused to them, do Government propose to advise the administration in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : No, for the reason that if Government were prepared to advise the Railway administration in such matters, they must first send for the whole of their programme for the year and take it upon themselves to decide upon the comparative importance of the works, and Government are not prepared to do that.

Pandit Lakshmi Kanta Maitra : May I know whether the Viceroy's Party never brought any complaint to the attention of the Railway Board ?

The Honourable Sir Muhammad Zafrullah Khan : No.

Mr. Sri Prakasa : Are Government satisfied that the Railways are exercising their discretion in such matters properly ?

The Honourable Sir Muhammad Zafrullah Khan : Certainly.

Mr. Sri Prakasa : Sir, I am not asking question No. 747. It has already been answered in another connection.

†747*.

DIFFERENTIATION MADE BY VENDORS OF FOOD-STUFFS AT RAILWAY STATIONS.

748. ***Mr. Sri Prakasa :** (a) Are Government aware that at various railway stations pedlars sell what is called 'Hindu Tea' and 'Muslim Tea' ?

(b) Have Government specified the religion of the various sorts of tea sold at railway stations ? If not, what exactly do these terms mean ?

† This question was withdrawn by the questioner.

(c) Are Government aware that among Hindus themselves, various castes do not take food or drink touched by each other ?

(d) If the intention of Government is to prevent the contamination of one religion by the touch of another religion, by differentiating between Hindu and Muslim tea, are they also prepared to arrange for the prevention of the contamination of various castes among Hindus in a similar manner ?

(e) If not, are Government prepared to prevent forthwith such differentiation being made by at least the licensed vendors of food-stuffs at railway stations ?

The Honourable Sir Muhammad Zafrullah Khan : (a) There are stalls at several stations with notice boards to this effect, and it is believed that hawkers announce their teas accordingly.

(b) No ; the notice boards merely indicate that the vendor is a Hindu or a Muhammadan as the case may be.

(c) I am prepared to accept this from the Honourable Member.

(d) and (e). Such differentiation as there is at present has been forced on Railways by public demand, but Government are prepared to stop it if feeling is unanimously against it. They have no intention, however, of making any further differentiation.

Mr. T. S. Avinashilingam Chettiar : Do Government expect that at any time there will be unanimous feeling in a matter of this nature ?

The Honourable Sir Muhammad Zafrullah Khan : One never knows what may happen.

Mr. T. S. Avinashilingam Chettiar : Is it not a fact, Sir, that it can only be a majority who can have a feeling in this respect, and there can never be a uniform feeling in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : These feelings are based mostly on religious sentiment, and I am afraid in such a case the majority sentiment cannot be taken to override the sentiments of the minority.

Mr. K. Ahmed : Are Government aware that Hindu passengers at railway stations refuse to take water from the same hydrant or water tap, and the matter has gone so far that there was even a death, and are not Government justified in maintaining separate establishment for supplying water for Hindus and Muhammadans, in the same way as there are Hindu and Muslim *puri* and *kachori* suppliers ? Instead of thanking the Government for making that provision, does it not look extraordinary for certain Hindu Members to raise objections for whose benefit the above provision was made ?

Mr. Sri Prakasa : With reference to answer to part (ii) of sub-clause (d), are Government satisfied that they are meeting the sentiments of various castes of Hindus themselves in this connection ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of the sentiment referred to by the Honourable Member.

Mr. Sri Prakasa : Is the Honourable Member not aware that many so-called higher caste Hindus also do not take food or drink served out

by the vendors and first make sure of the particular caste of the vendors even when they announce that they are Hindus ?

The Honourable Sir Muhammad Zafrullah Khan : I have answered that in (c) in my reply. I am prepared to accept from the Honourable Member that there is such a differentiation.

Mr. Sri Prakasa : If the Government don't mind this differentiation among the Hindus themselves, why do they make the differentiation between Muslims and Hindus ; and by abolishing them, not help to foster unity ?

The Honourable Sir Muhammad Zafrullah Khan : Government do not mind the differentiation. Government have made the differentiation wherever they were pressed to do so.

Mr. K. Ahmed : Is it not a fact, Sir, that advanced and educated Hindus do not refuse to take meals or refreshments from the hands of Muslims, but the majority of those people who are a little bit orthodox tell the others " Oh, look here, you are making a mistake ", while they themselves don't admit that they are taking food from Muslims which, according to their religion, they should not take, and that is the real difficulty which arises very often ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I am not able to see the point of the Honourable Member's question.

Mr. Sri Prakasa : Is the Honourable Member aware when persons like myself, who do not observe so-called ' caste ', ask for tea or food from those who announce themselves as Muslim vendors, they decline to give them on the plea that they are Muslims ?

The Honourable Sir Muhammad Zafrullah Khan : On that point, the Honourable Member alone can furnish the information. I am unable to furnish any information.

Mr. S. Satyamurti : Will the Government consider the desirability of abolishing this distinction, in the name of civilized secular Government ?

The Honourable Sir Muhammad Zafrullah Khan : The Government are prepared to abolish this distinction if the demand for such a distinction practically ceases.

Mr. Sri Prakasa : When was the demand made and how did the Government assure themselves that there was such demand before they introduced this distinction ?

The Honourable Sir Muhammad Zafrullah Khan : I think there is another question which has not yet been reached where an Honourable Member of this House enquires why a Hindu water carrier has not been provided at a certain station.

Mr. Sri Prakasa : Why should the Honourable Member think that the Honourable Member who has put that question represents public opinion, while I who happen also to be a Member of the House am not regarded as representing public opinion when I say that we do not want such distinction ?

The Honourable Sir Muhammad Zafrullah Khan : That is a matter of opinion.

RESERVATION OF FOUR FIRST CLASS BERTHS ON PAYMENT OF ONE FARE ON RAILWAYS.

749. *Mr. Sri Prakasa : (a) Is there any particular class of men in India who are permitted the use of a whole first class compartment of four berths on payment of one fare ?

(b) If so, which individuals constitute this class ?

(c) Who is responsible for the loss of revenue to the railway by the three other seats going vacant ? And what arrangement is made for any other passenger who may want to travel by that train and find no other seats vacant except the three in such a compartment ?

(d) Is it a fact that sometimes *bonâ fide* travellers coming from further up the line, are asked to vacate their seats in order that privileged individuals may have all the seats to themselves ?

(e) Have there been any unseemly quarrels between the railway staff and such a passenger on such occasions ?

(f) Are Government prepared to order the discontinuance forthwith of the practice of reserving four berths on the payment of one for any person whatsoever ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b), (c) and (f). Do not arise.

(d) and (e). Government are not aware of any such cases.

Mr. Sri Prakasa : Is it not a fact that Judges of the High Courts and Presidents of Provincial Councils pay only one first class fare to get one full compartment reserved for them ?

The Honourable Sir Muhammad Zafrullah Khan : The railways are paid the full amount which is due in respect of the accommodation reserved.

Mr. Sri Prakasa : The gentlemen concerned pay only one fare and do the Government make up for the balance of fares afterwards ?

The Honourable Sir Muhammad Zafrullah Khan : That is not the concern of the Railway Department.

Mr. Sri Prakasa : That is my concern because I have to pay the remaining three fares.

The Honourable Sir Muhammad Zafrullah Khan : I cannot answer that question. That does not relate to the Railway Department.

Mr. Sri Prakasa : I do not mean that. I pay the remaining fares myself. I pay as a taxpayer for it is the taxpayer who has always to pay ; and does not the Honourable Member as the custodian of the interests of the taxpayer regard it as desirable that such a system is abolished ?

The Honourable Sir Muhammad Zafrullah Khan : As I have tried to explain, it has nothing to do with the Railway Department. So far as the fares are concerned, the full amount due is paid to the railways. The Railway Department is satisfied.

Seth Govind Das : Is the money paid out of Provincial Governments' budgets ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member has said that Judges of the High Court and Presidents of Provincial Councils are entitled to this privilege. I am unable to say who pays the fares.

Mr. Sri Prakasa : Is it a fact that they are entitled to this privilege ?

The Honourable Sir Muhammad Zafrullah Khan : I am unable to say.

Mr. K. Ahmed : Is it not a fact that the Chief Justice of every High Court is allowed by the Government to have the price of four tickets to include his bill of travelling allowance, and the Puisne Judges are only entitled to a single first class, but as a matter of fact when one berth is engaged by the Department for a Puisne Judge, any gentleman of the type of my Honourable friend, the questioner, and others as a rule do not venture to travel in the same compartment out of respect of the Judge and his judicial attainment even though there are other berths vacant in the same compartment ?

(No answer.)

Mr. N. M. Joshi : May I ask, Sir, whether it is open to a Member of Government to say that a particular matter is not within his jurisdiction and it is not for him to reply when the Government of India is one and indivisible ?

The Honourable Sir Muhammad Zafrullah Khan : The instances cited have nothing to do with the Government of India in any of its Departments.

Mr. Mohan Lal Saksena : What about Judges ? They are under the Government of India ?

The Honourable Sir Muhammad Zafrullah Khan : No ; they are the concern of the Local Governments.

Seth Govind Das : The Provincial Governments are subordinate to the Government of India.

The Honourable Sir Muhammad Zafrullah Khan : They are not subordinate to the Government of India.

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

PERSONS PAID FROM INDIAN REVENUES IN THE UNITED KINGDOM AND THE BRITISH COLONIES.

750. ***Mr. Sri Prakasa :** (a) What is the number of persons, paid from Indian revenues, who drew their salaries and pensions in 1935 and 1936 in :

- (i) the United Kingdom, and
- (ii) the British Colonies ?
- (b) How many such persons reside in :
 - (i) the United Kingdom,
 - (ii) the British Colonies, and
 - (iii) India ?

(c) What is the total amount of salaries and pensions of such persons drawn in :

- (i) the United Kingdom, and
- (ii) the British Colonies ?

(d) What is the monthly and annual maximum and minimum of such salaries and pensions ?

The Honourable Sir James Grigg : (a), (b) and (d). The information is not available.

(c) I would invite the Honourable Member's attention to the reply given by me to Mr. T. S. Avinashilingam Chettiar's starred question No. 1410 on the 23rd March, 1936, which contains all the information available.

Mr. Sri Prakasa : Will the Government make any efforts to obtain the information ? Or, will it be too much of a trouble ?

The Honourable Sir James Grigg : I would not put it on the score of trouble, but on the score of expense.

Mr. M. Ananthasayanam Ayyangar : Is it not even possible to say the total amount of salaries and pensions as requested in part (c) of the question ?

The Honourable Sir James Grigg : If the Honourable Member refers to starred question No. 1410, which I referred to, he will see all the information that is available.

Mr. Lalchand Navalrai : Are there no registers or records to show which amount of pension is drawn in the United Kingdom and which in the British colonies ?

The Honourable Sir James Grigg : Of course the information is there, but the question of compiling it and the labour and expense of compiling it is the matter in question now.

Mr. Sri Prakasa : I do not ask questions Nos. 751 and 752, as they have already been answered in another connection.

†751*.

†752*.

DUTIES OF THE SECOND GRADE POSTAL CLERKS.

753. ***Mr. Suryya Kumar Som :** (a) Is it a fact that Government, when creating the cadre of lower division clerks, now known as second grade clerks in the Posts and Telegraphs Department, announced that the duties of the newly created cadre of clerks would be of routine nature and they would not be required to do intelligent work nor work of bigger monetary responsibilities ?

(b) Is it a fact that these clerks are now frequently ordered to hold charge of important branches and sub-offices and to undergo heavy monetary responsibilities ?

† This question was withdrawn by the questioner.

(c) Is it a fact that the Pasricha Committee held the view that the direct recruits to the lower division clerks, now known as second grade clerks, are as good as upper division clerks in point of office work and academic qualification and they are doing as responsible work as upper divisions and in some cases of even greater importance ?

The Honourable Sir Frank Noyce : (a) The facts are not as stated by the Honourable Member. When the new grade of lower division clerks was created the intention was to employ this class of officials for the discharge of "intelligent routine duties"; but later on it was laid down by Government that it was open to the Head of the office to employ these lower division clerks in such duties as he might think most suitable, subject to the conditions that the officials in question were employed solely on work of a routine nature or on work, including transactions with the public, which involved comparatively minor responsibilities. I may add that recruitment to the old grade of lower division clerks has now been discontinued but that grade is not now known as second grade.

(b) Government have no information but they have no reason to believe that the orders on the subject are not being observed.

(c) Yes.

Pandit Lakshmi Kanta Maitra : Is it not a fact that the Pasricha Committee held the view that second grade clerks were recruited from highly educated section of the community and that they were called upon to discharge duties and responsibilities as onerous as those of upper division clerks ?

The Honourable Sir Frank Noyce : That question is covered by part (c) to which I have replied, "Yes".

Pandit Lakshmi Kanta Maitra : If that is so, then does not the Honourable Member think that they should be given better prospects in the matter of pay and emoluments ?

The Honourable Sir Frank Noyce : We have revised the whole system, as I shall be explaining in reply to the next question.

NEW SCALES OF PAY INTRODUCED FOR THE SECOND GRADE POSTAL CLERKS AND SUB-POSTMASTERS.

754. ***Mr. Suryya Kumar Som :** (a) Has the attention of Government been drawn to an article under the caption 'The miserable life of the Lower Division Clerks and sorters of direct recruitment' appearing at page 278 of the September, 1935, issue of *Labour*, the Postal organ of the Provincial Postal and R. M. S. Union of Assam and Bengal Circle ?

(b) Is it a fact that the scale of pay introduced for the second grade clerks and Sub-Postmasters, many of whom are graduates and undergraduates, is less than that of their junior non-matriculate second grade clerks recruited from the rank of postmen ?

(c) Is it a fact that the Pasricha Committee recommended that the directly recruited lower division clerks should be differentially treated in comparison with lower division clerks recruited from the postmen for former's higher academic qualification as well as bigger responsible work ?

(d) Do Government contemplate revising the pay of the directly recruited second grade clerks ?

The Honourable Sir Frank Noyce : (a) Government have seen the article referred to.

(b) The facts are not as stated by the Honourable Member. The new rate of pay for clerks is a uniform scale divided into two grades and it applies to all persons who enter, have entered or have been re-employed in Government service whether in a permanent or other capacity since the 16th July, 1931. There is no separate scale of pay as such for second grade clerks and sub-postmasters. Postmen who were officiating in the old lower division clerical cadre and were later confirmed draw the pay prescribed for that division, but postmen who may be promoted hereafter to the clerical cadre will get the same scale of pay as the direct recruits.

(c) No.

(d) No.

Mr. Lalchand Navalrai : With reference to the answer to part (b) of the question, may I know whether it is a fact that graduates get less pay than junior non-Matriculates who have risen from the rank of postmen ?

The Honourable Sir Frank Noyce : There used to be a distinction for graduates. Formerly graduates were recruited, if not on a different scale, at any rate on an advance stage of the scale, but that distinction has since been abolished.

Pandit Lakshmi Kanta Maitra : Do I understand the Honourable Member to say that at present these two distinctions have been abolished—direct recruits and those promoted from the ranks of postmen and sorters. Do I understand from the Honourable Member that the scales of pay for the two classes have been made the same ?

The Honourable Sir Frank Noyce : Under the new scales of pay, there is no separate scale as such for second grade clerks and sub-postmasters. I may add that this is an extraordinarily complicated question and I shall be glad to discuss it with my Honourable friend if he would see me later on.

Pandit Lakshmi Kanta Maitra : When were the new scales of pay introduced with regard to the new entrants ?

The Honourable Sir Frank Noyce : Very recently, I cannot say exactly from what date.

GNANENDRA CH. MAJUMDAR, A DETENU IN THE DEOLI DETENTION CAMP.

755. ***Mr. Suryya Kumar Som :** (a) Are Government aware that Gnanendra Ch. Majumdar, a detenu at Deoli Detention Camp, has lost 40 pounds weight, and that his health has greatly deteriorated ?

(b) Are Government aware that during his internment in 1918 he developed symptoms of tuberculosis, for which he was released, and that he was cured after long treatment ?

(c) In view of this great decrease in his weight and deterioration of his health, are Government prepared to have him examined by a competent doctor as to the cause of this loss of weight ?

(d) If it is found that there is great loss of his weight and his health has deteriorated, are Government prepared to release him, or at least, to remove him to some healthier place ?

(e) Are Government aware that his only son Torun Majumdar and his wife Shurama Majumdar have also been interned at their residence at Mymensingh ?

(f) Are Government aware that Gnanendra Majumdar has got some landed property within Netrokona sub-division which require constant looking after and that those properties are being ruined for there being none to look after them ?

(g) Are Government prepared to release him, or at least, intern him at his residence at Mymensingh town ?

(h) Are Government aware that after his internment, his family was given Rs. 70 as allowance, but that was subsequently reduced to Rs. 50 on account of his Mymensingh house being let out at Rs. 40, and that his son and wife had to occupy that house when they were home interned and they are still occupying it and had to forego the rent amounting to Rs. 40 a month ?

(i) Are Government prepared to increase the allowance to its former amount of Rs. 70 ?

(j) Are Government aware that his only son, Torun Majumdar, has passed the B.A. examination as a private student this year and cannot prosecute his studies in the M.A. class for want of fund ?

(k) Are Government prepared to grant education allowance to Torun Majumdar, so that he can prosecute his studies in the M.A. class at Dacca or Calcutta ?

The Honourable Sir Henry Craik : (a) As a result of an attack of influenza last January, the detenu lost 30 lbs. in weight. He has, however, since regained 12 lbs. His general health is now satisfactory and no special treatment is considered necessary.

(b) No.

(c) and (d). These parts do not arise.

(e) and (f). The Government of India have no information. These are matters for the Government of Bengal.

(g) No.

(h), (i), (j) and (k). The question of granting allowances in respect of detenus detained under the Bengal Criminal Law Amendment Act is one for the Government of Bengal.

Pandit Lakshmi Kanta Maitra : When was it that this gentleman, Jnanendra Nath Majumdar, got an attack of influenza on account of which he lost 30 pounds in weight ?

The Honourable Sir Henry Craik : I said, in January last.

Pandit Lakshmi Kanta Maitra : On receipt of notice of this question did the Honourable Member inquire whether this loss of 30 pounds was due mainly to ordinary influenza ?

The Honourable Sir Henry Craik : I do not know what the Honourable Member means by "Ordinary influenza", but it was a severe attack of influenza which lasted for 23 days.

Pandit Lakshmi Kanta Maitra : Is it not a fact that this gentleman was a victim of tuberculosis and Government let him out for treatment in the year 1918 ?

The Honourable Sir Henry Craik : That suggestion was put in one part of the question but I think I said that we have no information.

Pandit Lakshmi Kanta Maitra : My question was, did the Honourable Member on receipt of this question inquire whether this particular gentleman developed tuberculosis as a result of which the Government of Bengal ordered his release for his better treatment ?

The Honourable Sir Henry Craik : My answer to that was that it is not a fact.

Pandit Lakshmi Kanta Maitra : Is it also not a fact that even now he is running a slight temperature and he is having symptoms of tuberculosis ?

The Honourable Sir Henry Craik : No, Sir, it is not a fact. He was examined as recently as the 29th August by the Chief Medical Officer in Rajputana, who found that his general health was good and that no special diet or treatment was necessary.

Pandit Lakshmi Kanta Maitra : Is it not a fact that not only has this gentleman been interned at Deoli but his wife and only son are also interned at Mymensing ?

The Honourable Sir Henry Craik : I have answered that. I have said that these are matters for the Government of Bengal about which I have no information.

Pandit Lakshmi Kanta Maitra : I am asking this question about a detenu who is in a centrally administered area which is under the administration of the Government of India.

The Honourable Sir Henry Craik : I have answered questions about the detenu who is under the charge of the Government of India.

Pandit Lakshmi Kanta Maitra : Then may I know from the Honourable Member whether it is not his concern to take into consideration the adequacy or inadequacy of the allowance of a particular detenu ?

The Honourable Sir Henry Craik : No, Sir, it is for the Government of Bengal.

Pandit Lakshmi Kanta Maitra : Even in centrally administered.....

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

PROHIBITION AGAINST GOVERNMENT PENSIONERS STANDING AS CONGRESS CANDIDATES TO THE PROVINCIAL LEGISLATURES.

756. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether there is any prohibition, express or implied, against Government pensioners standing as Congress candidates, or as candidates on any other tickets, in the ensuing elections to the Provincial Legislatures ;
- (b) if so, what they are, and the reasons therefor ; and
- (c) if not, whether they propose to issue a communiqué on the subject ?

The Honourable Sir Henry Craik : (a) and (b). No orders have been issued prohibiting retired Government servants from standing, as Members of any party for election to the Provincial Legislatures. I do not know what the Honourable Member means by an "implied prohibition".

(c) The Government see no need for a communiqué.

Mr. S. Satyamurti : With reference to the answer and with the regard to my Honourable friend's question about what I meant by "implied", I am asking whether Government have in the past taken any action against pensioners of Government identifying themselves with the Congress and whether in the future if Government pensioners stand as Congress candidates they intend taking any steps against them in respect of their pensions from Government.

The Honourable Sir Henry Craik : Government have in the past taken steps against pensioned Government servants who have joined any movement subversive of the Government, and the Honourable Member is aware that at one time the Congress promoted such a movement. As regards the future, they do not intend to take any steps against any retired Government servants who may stand as Congress candidates.

Mr. K. Ahmed : Will Government be pleased to take steps and warn pensioners not to stand for any election, and if they do like to stand they incur not only the displeasure of the public but their pension may be forfeited ?

* * * * *

ARTICLE ENTITLED "TRANSPORT ADVISORY COUNCIL MEETING" REGARDING RAILWAYS PUBLISHED IN THE *Roy's Weekly*.

757. *Mr. S. Satyamurti : Will Government be pleased to state .

- (a) whether their attention has been drawn to an article entitled "Transport Advisory Council Meeting" in the *Roy's Weekly* of the 27th July regarding railways .

(b) whether they propose to remedy the defects pointed out therein ; and

(c) if so, when ; and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, by the Honourable Member's question.

(b) and (c). As the Honourable Member may have observed, the criticism has reference to timings of trains at various junctions, all of which are matters of detail for consideration by the Railway Administration whose attention is being drawn to the article in question.

Mr. S. Satyamurti : With reference to the answer to clause (a), may I know whether Government Members do not read articles in the newspapers concerning their departments, and whether they are not put before them by their own subordinates who, I think, have to read these newspapers, and report to them the comments which appear in the prominent papers ?

The Honourable Sir Muhammad Zafrullah Khan : Ordinarily, yes.

ASSAULT ON THE INHABITANTS OF A VILLAGE NEAR GARHA (JUBBULPORE) BY
BRITISH SOLDIERS.

758. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether it is a fact that four British soldiers assaulted the inhabitants of a village near Garha, six miles from Jubbulpore ;

(b) whether the assault was due to any action on the part of the villagers to protect some woman or women from assault by those soldiers ;

(c) whether the military headquarters have made any enquiry into the facts of this case ; and

(d) who made the enquiry, and what the result of the enquiry is ?

Mr. G. R. F. Tottenham : (a) No.

(b) Does not arise.

(c) Yes.

(d) I would refer the Honourable Member to the Press Communiqué on the subject issued on the 13th August, 1936.

REMEDIES TO MEET MOTOR COMPETITION WITH RAILWAYS.

759. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article entitled, " Put your house in order ", in the *Amrita Bazar Patrika*, dated the 27th July ;

(b) whether they have examined all the remedies adopted by the British Railways to meet motor competition ; and

- (c) whether they propose to adopt them here in this country, and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes.

(c) Similar action has been taken by Railway Administrations here according as circumstances have called for.

JUDGMENT OF MR. JUSTICE AMIR ALI REPRODUCED IN THE *Hindustan Times*.

760. ***Mr. S. Satyamurti :** Will Government be pleased to state .

- (a) whether their attention has been drawn to a recent judgment of Mr. Justice Amir Ali, reproduced in the *Hindustan Times*, on Sunday, the 2nd August, 1936 ;
- (b) whether their attention has been drawn particularly to the following sentence in the judgment, " Unless some steps are taken to reform the system, I am convinced that the system will be destroyed, and I must confess, I consider it deserves to be destroyed " ; and
- (c) whether they propose to take any steps, in consultation with High Courts and Local Governments, to reform the system, and if not, why not ?

The Honourable Sir Nripendra Sircar : (a) and (b). Yes.

(c) The ' system ' complained of is the evil of solicitors' costs proving too heavy in certain cases. The matter is completely under the control of High Court, and no action either by Government or the Legislature is necessary.

NEGOTIATIONS FOR A FRESH TRADE AGREEMENT TO REPLACE THE OTTAWA TRADE AGREEMENT.

761. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) at what stage the negotiations for a fresh agreement to replace the Ottawa Agreement stand now ;
- (b) whether there is any idea of making a temporary arrangement, till the negotiations are completed for a fresh agreement, and if so, what they are ;
- (c) whether Mr. Stewart is to be deputed as a special officer to England for this purpose ; and
- (d) whether any non-official adviser will be associated with him, and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Local Governments and Administrations and representative commercial bodies in India have been consulted as to the lines on which it is considered desirable to conclude a new Trade Agreement with His Majesty's Government in the United Kingdom and the replies received are being scrutinised.

(b) The Honourable Member's attention is invited to the reply given by me to his starred question No. 452 in the current Session.

(c) and (d). The Honourable Member is referred to the Press Communiqué issued by the Commerce Department on the 31st August, 1936. The question of the appointment of India's Delegation to the United Kingdom has not yet been taken up by the Government of India.

Mr. S. Satyamurti : Are these replies from the Local Governments and local administrations being placed before the non-official advisers ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Mr. S. Satyamurti : With reference to the answer to clauses (c) and (d), may I take it that Government have arrived at no conclusion on any of these matters, as to who is to be deputed, and when, where, etc. ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

NEGOTIATIONS FOR AN INDO-JAPANESE TRADE AGREEMENT.

762. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) at what stage the Indo-Japanese Trade talks stand today ;
- (b) what are the lines on which the negotiations are proceeding ;
and
- (c) when the negotiations are expected to be completed ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (c). The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

Mr. S. Satyamurti : Is there no answer to clause (c) of the question ?

The Honourable Sir Muhammad Zafrullah Khan : I think the Honourable Member has already put that question in one of his supplementaries on a previous question, and I said I am unable to specify any date on which the negotiations will be completed.

Mr. Mohan Lal Saksena : Is a copy of the communiqué available in the Library ?

The Honourable Sir Muhammad Zafrullah Khan : I believe so.

Mr. M. Ananthasayanam Ayyangar : How is it that Government have not constituted a committee on the lines of the committee appointed to consider suggestions to replace the Ottawa Agreement in the case of the Indo-Japanese talks ?

The Honourable Sir Muhammad Zafrullah Khan : There is no committee in the case of Ottawa either but there is a panel of non-official advisers in both cases.

EDITORIAL COMMENTS ENTITLED "STERLING LOAN" PUBLISHED IN THE *Indian Finance*.

763 ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the editorial comments in *Indian Finance* of the 25th July, 1936, entitled "Sterling loan" ; and

(b) whether they propose to float a fresh loan, and if so, when ?

The Honourable Sir James Grigg : (a) and (b). I am not prepared to make any statement on this subject.

Mr. S. Satyamurti : May I know whether the fear or the inability is due to the Honourable the Finance Member's general disinclination to take any of us into his confidence, or is there any particular reason why he is unable to answer this question ?

The Honourable Sir James Grigg : There is a general reason and that is that in matters of taxation or raising loans, in fact in any matter on which the advance notice of Government's intentions can be taken advantage of by the market, I refuse to make any statement.

Mr. M. Ananthasayanam Ayyangar : Is it not a fact that in previous years contemplated loans were generally provided for in the budget and that has been the practice ?

The Honourable Sir James Grigg : No, Sir. A general idea of the amount of money which it may be necessary to borrow at some time during the year is given.

Mr. M. Ananthasayanam Ayyangar : Was it not indicated in the budget of the year before last as to whether a loan would be raised in India as a rupee loan or raised in England as a sterling loan, and details were given ?

The Honourable Sir James Grigg : No, it certainly was not.

Mr. S. Satyamurti : May I know why the Government made a statement yesterday, through my Honourable friend, which I think has caused some speculation ?

The Honourable Sir James Grigg : Not at all. It was intended to allay speculation.

INDIAN DELEGATION TO LONDON IN CONNECTION WITH THE CONCLUSION OF A TRADE AGREEMENT IN PLACE OF THE OTTAWA TRADE AGREEMENT.

764. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they propose to send an Indian delegation to London in connection with the conclusion of trade agreement in place of the Ottawa Pact ;

(b) whether the views of the Local Governments and of the Chambers of Commerce have been asked for, and have been obtained on this question ;

(c) whether they are preparing or will prepare a memorandum and send it to His Majesty's Government, and if so, when ;

(d) whether they expect to hear from the British Government in return to the memorandum and if so, when ;

(e) what action they propose to take at the stage of the receipt of this memorandum ;

(f) whether further negotiations will be carried on in India ; and

(g) whether it has been pressed or will be pressed on His Majesty's Government that a delegation must proceed to India to negotiate for a fresh agreement, and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would draw the attention of the Honourable Member to the reply I gave in answer to a supplementary question put by him yesterday.

(b) Yes, Sir.

(c) to (f). In consultation with their un-official advisers whose names have recently been announced the Government of India will prepare their preliminary proposals and exchange them with the proposals of His Majesty's Government in the United Kingdom. When the Government of India has had an opportunity of examining the proposals of the other party in relation to its own a stage will be reached when it will be possible to formulate with some precision the outstanding issues. It is then proposed that personal contacts should be established between representatives of the Government of India and their un-official advisers on the one hand, and the representatives of His Majesty's Government on the other, and that the final stages of the discussions be there concluded.

(g) Government have been informed that His Majesty's Government in the United Kingdom are not in a position to send a Delegation to India.

Mr. S. Satyamurti : When was the Government of India so informed ?

The Honourable Sir Muhammad Zafrullah Khan : Recently.

Mr. S. Satyamurti : Have the Government of India, since the receipt of the intention of His Majesty's Government of their inability to send a deputation here, pressed on His Majesty's Government, the need for reconsidering the position and sending a deputation to India ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

Prof. N. G. Ranga : Is it not a fact, with reference to part (b), that no peasants' associations have been asked to send their views with regard to this ?

The Honourable Sir Muhammad Zafrullah Khan : Everybody is welcome to send their views with regard to this.

Prof. N. G. Ranga : Why is it that whereas the Chambers of Commerce have been asked to send their views no peasants' associations have been called upon to send their views ?

The Honourable Sir Muhammad Zafrullah Khan : The Chambers of Commerce were asked because they are well established and well recognised bodies with a history behind them : the peasants associations are in rather nebulous state at present.

Prof. N. G. Ranga : What does the Honourable Member mean by " well recognised " ?

The Honourable Sir Muhammad Zafrullah Khan : I am not a dictionary.

Prof. N. G. Ranga : Is the Honourable Member aware that several provincial peasants associations are as old as six years and have been functioning ?

The Honourable Sir Muhammad Zafrullah Khan : Six years in such a case, I am afraid, is not a very long period.

Prof. N. G. Ranga : How long would Government like an association to exist before it is called upon for an expression of views ?

The Honourable Sir Muhammad Zafrullah Khan : That is a hypothetical question. In any case it is not a question of time alone : it is also a question of organisation and how an association functions and so on.

Prof. N. G. Ranga : Have Government taken any steps at all to ascertain whether there are peasants associations or not in any particular province which deserved to be recognised by them and which deserve to be consulted by them ?

The Honourable Sir Muhammad Zafrullah Khan : If there had been any such organisation I can assure my Honourable friend that Government would have consulted it.

Mr. Huseinbhai Abdullabhai Laljee : May we know on what ground or basis the non-officials have been selected for inclusion in this committee ?

The Honourable Sir Muhammad Zafrullah Khan : On the basis of their representing certain interests.

Mr. Huseinbhai Abdullabhai Laljee : Are there any exporters in that non-official group ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say whether among that group there is anybody who actually carries on the business of an exporter, but I believe there are among them people who are interested in exports.

Mr. N. M. Joshi : May I ask which interests have been represented on this committee ?

The Honourable Sir Muhammad Zafrullah Khan : I am quite sure that the Honourable Member who has put this question is intelligent enough if he goes through the list of non-official advisers to decide for himself what interests they represent.

Mr. V. V. Giri : What about representatives of trade union organisations ?

The Honourable Sir Muhammad Zafrullah Khan : I have not said that every possible organisation in this country is represented.

Mr. V. V. Giri : Is it not an important organisation in the country ?

The Honourable Sir Muhammad Zafrullah Khan : Yes ; but obviously having regard to the size to which this panel must be confined, it is impossible for every organisation in the country to be represented.

Mr. Mohan Lal Saksena : May I know what interests the representative of the United Provinces represents ?

The Honourable Sir Muhammad Zafrullah Khan : There is no representative as such of the United Provinces.

Mr. S. Satyamurti : What according to the Government are the interests actually represented on this non-official board ?

The Honourable Sir Muhammad Zafrullah Khan : Commercial, industrial, agricultural, etc.

Mr. Mohan Lal Saksena : Is there any representative from the United Chamber of Commerce of the United Provinces ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has answered that already.

The Honourable Sir Muhammad Zafrullah Khan : Chambers of Commerce as such were not asked to nominate their representatives.

Mr. Mohan Lal Saksena : Has anybody been taken from the United Provinces ?

The Honourable Sir Muhammad Zafrullah Khan : I have already submitted the list to the House. Honourable Members can decide for themselves.

Mr. M. Ananthasayanam Ayyangar : Can we know whether the Government has placed any tentative proposals before the panel ?

The Honourable Sir Muhammad Zafrullah Khan : I gave detailed answers to these questions only yesterday.

ARTICLE ENTITLED " THE INDIAN STEEL INDUSTRY " PUBLISHED IN THE *Amrita Bazar Patrika*.

765. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article, entitled " The Indian Steel Industry " in the *Amrita Bazar Patrika*, dated the 25th July ;
- (b) whether there is any proposal, to the knowledge of the Government, in which Tata Iron and Steel Company, Limited, The Indian Iron Steel Co., Ltd., and Bengal Iron Co., Ltd., are forming themselves into one concern ; and
- (c) whether they propose to take steps to see that the control of the important part of this key industry is not vested in non-Indian hands ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir.

(b) Government have seen reports about the proposal in the Press.

(c) The attention of the Honourable Member is invited to Chapter III of Part V of the Government of India Act, 1935.

Mr. S. Satyamurti : I am not talking of the Act : I am asking the question, whether they propose to take steps to see that the control of the important part of this key industry is not vested in non-Indian hands.

The Honourable Sir Muhammad Zafrullah Khan : That is an entirely hypothetical question in view of my reply to part (b) of the question.

Mr. S. Satyamurti : May I know whether Government have made inquiries and found out which are the interests concerned in the Tata Iron and Steel Company, the Indian Iron and Steel Company, and the Bengal Iron Company ?

The Honourable Sir Muhammad Zafrullah Khan : It is not a question of making inquiries. If the Honourable Member wants information, it will be obtained if he puts down a question on the paper.

Mr. S. Satyamurti : Are there no non-Indian interests in these three concerns, that I have mentioned in clause (b) of my question ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will put down a question, the information will be supplied to him.

Mr. S. Satyamurti : This question, Sir, has been put down—parts (b) and (c) : I am asking whether Government have inquired and have satisfied themselves that, in these three concerns, there are non-Indian interests.

The Honourable Sir Muhammad Zafrullah Khan : I have said that in view of my reply to part (b), which was " Government have seen reports about the proposal in the Press " and which means that Government have no information themselves, the question of the Honourable Member becomes a hypothetical question.

Mr. S. Satyamurti : May I know why Government did not inquire after receiving this question, whether non-Indian interests were represented in these concerns ?

The Honourable Sir Muhammad Zafrullah Khan : There is no question to the effect whether non-Indian interests are represented in these three concerns. If the Honourable Member puts down a question, I will see if the information can be supplied.

Mr. S. Satyamurti : Do they not read these questions ? Parts (a) and (b) of the question have been before them, and they are explicit enough.

The Honourable Sir Muhammad Zafrullah Khan : And my reply is, there is no question on the point : at present the whole question is hypothetical.

BAN ON INDIAN STUDENTS IN GREAT BRITAIN.

766. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article entitled " Ban on Indian students in Britain ", in the *Amrita Bazar Patrika*, dated the 26th July ;

(b) whether they have investigated or propose to investigate the facts stated in that article ; and

(c) whether they propose to take steps to prevent any such discrimination against Indians in England and if not, why not ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The High Commissioner for India has been asked for a report and the result will be communicated to the House in due course.

Mr. S. Satyamurti : When was the communication to the High Commissioner made ?

Sir Girja Shankar Bajpai : On the 31st August, 1936.

Mr. S. Satyamurti : Have not Government heard since then from him ?

Sir Girja Shankar Bajpai : No. If I had had any information, I should have submitted it to the House.

Mr. S. Satyamurti : When do they expect to hear from him ?

Sir Girja Shankar Bajpai : He has been asked to make a report as soon as he has ascertained the facts. I cannot say when that will be.

Dr. Ziauddin Ahmad : May I ask what is this ban on Indian students ?

Sir Girja Shankar Bajpai : It relates to an individual case of two Indian students having been refused admission into a post-graduate medical research hospital in Hammersmith.

RULES FOR CLASSIFICATION OF POLITICAL PRISONERS.

767. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article in the *Hindu*, dated the 23rd July, entitled "Political prisoners", regarding jail classification rules ;
- (b) whether they have examined the working of the rules of classification of Political Prisoners by Local Governments ;
- (c) whether they propose to take steps to ensure uniformity of treatment in the provinces in this matter ; and
- (d) whether they propose to take action on the suggestion that there should be one prison in each province, especially for Political Prisoners ?

The Honourable Sir Henry Craik : (a) I have seen the article.

(b) No specific examination has been made.

(c) Government have no information that the principles laid down by them are not being uniformly followed.

(d) No.

Mr. S. Satyamurti : Will Government consider the question of examining as early as they can find time, the working of these rules of classification by various Local Governments ?

The Honourable Sir Henry Craik : What particular point ?

Mr. S. Satyamurti : Especially with regard to securing uniformity in practice.

The Honourable Sir Henry Craik : Considering that in about six months from now, Local Governments will be the final authority on all jail matters, I do not really think that a specific examination would serve any useful purpose.

Mr. S. Satyamurti : I shall note that.

Mr. Mohan Lal Saksena : May I know if daily papers are supplied to B class prisoners in centrally administered areas ?

The Honourable Sir Henry Craik : I do not think that arises out of this.

Mr. Mohan Lal Saksena : Why not ? It relates to the treatment of prisoners.

Mr. President (The Honourable Sir Abdur Rahim) : It is very general.

TREATMENT OF CHETTIARS IN BURMA.

768. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article, on the reply which the Governor of Burma gave to the Naitukottai Chettiars in Burma in the *Hindu* of the 23rd July ; and

(b) whether they have taken or propose to take steps to see that the Chettiars in Burma are treated at least with as much consideration as other non-Burman communities in Burma ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) Government of India will do all they can to safeguard the legitimate interests of all Indians in Burma.

Mr. S. Satyamurti : May I ask for a specific answer to a specific question, whether the Government will take steps to see that the Chettiars in Burma are treated at least with as much consideration as other non-Burman communities in Burma ?

Sir Girja Shankar Bajpai : So far as the Government of India are aware, no action has yet been taken by the Government of Burma to give rise to the apprehension that they would be differentiated against.

Mr. M. Ananthasayanam Ayyangar : What is the latest position regarding the attitude of the Burma Government regarding the lands purchased by the Chettiars of Madras in Upper Burma ?

Sir Girja Shankar Bajpai : I knew that the Honourable Member might put that question even though it does not specifically arise out of this. The position as regards that is that the Chettiars in Burma had an interview with His Excellency the Governor and also with the Finance Member. The Finance Member promised to look into the matter. He has called for reports which were expected at the end of September, and the Government of India hope to hear shortly what the Local Government propose to do in the matter.

Mr. Sri Prakasa : When does the end of this mystic September come ? (Laughter.)

Sir Girja Shankar Bajpai : It has gone, but unfortunately there has not been enough time between the end of September and now for the Government of India and the Government of Burma to consider the matter. (Laughter.)

INTERVIEW GIVEN BY SIR HOMI MEHTA TO THE *Manchester Guardian* REGARDING
INDIAN COTTON INDUSTRY.

769. ***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to an interview given by Sir Homi Mehta, a leading Bombay mill-owner to the *Manchester Guardian* in London and reproduced in the *Amrita Bazar Patrika* of the 21st July, regarding causes of the decline of the Indian cotton industry ; and
- (b) whether they have examined or propose to examine the facts and allegations contained therein, and whether they propose to take steps to redress the grievances ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir.

(b) The question of assisting Indian mills to develop the weaving of cloth from Staple Fibre was examined early in 1936 and I would invite the attention of the Honourable Member to the Statement of Objects and Reasons attached to the Indian Tariff (Amendment) Bill, 1936, which contained a provision for the reduction of the import duty on this fibre. As the Honourable Member is aware the clause was omitted by the Select Committee on the Bill. With regard to the other points raised by Sir Homi Mehta, the Honourable Member is referred to the Government of India, Commerce Department, Resolution No. 341-T. (10)36, dated the 25th June, 1936, on the Report of the Special Tariff Board on the cotton textile industry, and to my speech in this House on the 2nd September, 1936, in connection with the Adjournment Motion by Mr. T. S. Avinashilingam Chettiar on the subject.

ALL-INDIA VILLAGE INDUSTRIES ASSOCIATION.

770. ***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether they have re-examined their attitude towards the All-India Village Industries Association in the light of its working for the last year and more ;
- (b) whether they have perused the report on the work of that association ;
- (c) whether they have found anything political or objectionable in their work ;
- (d) whether they are prepared now to issue a fresh circular calling upon all Local Governments and District Officers to co-operate with the work of that Association, and if not, why not ?

The Honourable Sir Henry Craik : (a) to (c). The information in my possession is that comparatively little actual work has been accomplished by the All-India Village Industries Association and Government have therefore as a matter of fact had no occasion to re-open the question.

(d) I would refer the Honourable Member to the answer given by me on the 8th September to parts (c) and (d) of his question No. 206.

Mr. S. Satyamurti : With reference to the answer to clauses (a), (b) and (c) of the question, may I know whether the information in possession of the Honourable the Home Member gives any support to the apprehensions of the Government, when they issued the Hallett circular that this association was really intended to promote political or subversive activities against the Government ?

The Honourable Sir Henry Craik : As I said, the information in my possession is that comparatively little actual work has been done by the Association, and in those circumstances it would be premature to say that the view taken in what the Honourable Member refers to as the Hallett circular is necessarily wrong.

Mr. S. Satyamurti : But have the Government any information to justify them in the view that the apprehensions entertained by the Government have been proved true so far, to any extent at all ?

The Honourable Sir Henry Craik : So far, the very small results achieved by the Association go to show that there does not appear to be anything politically objectionable about its activities.

Mr. S. Satyamurti : In view of that frank answer, if I may say so respectfully, may I ask my Honourable friend to be good enough to reconsider and withdraw this circular altogether ?

The Honourable Sir Henry Craik : I have already explained that the circular contained no specific directions as to the action to be taken by Government or its officers towards this Association, and that a later instruction was given that if any request for assistance or advice was made by the Association to any officer of the Government, that would be dealt with on its merits. In those circumstances I do not see that there is anything to withdraw.

DRAFT OF THE INSTRUMENT OF ACCESSION OF INDIAN PRINCES.

771. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether it is a fact that a draft of the general portion of the Instrument of Accession of Indian Princes to the Indian Federation has been received by them ;
- (b) whether they have knowledge that it has been received by the *Statesman's* representative in Simla ;
- (c) what is the final form in which the Instrument will be submitted for signature to the Indian States ;
- (d) whether they have seen the draft published in the *Statesman* of the 27th July ;
- (e) whether that draft is accurate ;
- (f) whether this draft has been sent to the Indian Princes ;
- (g) whether any replies have been received from them ; and
- (h) at what stage the negotiations between the Princes and the Government of India stand in this matter ?

The Honourable Sir Nripendra Sircar : (a) Yes ; it was released to the Press on the 15th August, 1936. A copy of the Press Communiqué is placed on the table of the House.

(b) No.

(c) It is not possible to determine this till the contents of the Schedules are settled.

(d) Yes.

(e) No.

(f) and (h). The draft general clauses of the Instrument of Accession have been transmitted to the States and Special Officers have been appointed who will visit the Indian States in order to elucidate such points of doubt or difficulty as the Rulers may encounter in their consideration of the draft Instrument of Accession.

(g) No.

Press Communiqué.

A provisional draft Instrument of Accession was published in Command Paper No. 4843. It has since been revised in light of Government of India Act, 1935 and of various criticisms upon it. The revised form reproduced below is being circulated to Indian States individually with a view to early discussion with Rulers :

INSTRUMENT OF ACCESSION of _____
(insert full name and title).

WHEREAS proposals for the establishment of a Federation of India comprising such Indian States as may accede thereto and the Provinces of British India constituted as autonomous Provinces have been discussed between representatives of His Majesty's Government, of the Parliament of the United Kingdom, of British India and of the Rulers of the Indian States.

AND WHEREAS those proposals contemplated that the Federation of India should be constituted by an Act of the Parliament of the United Kingdom and by the accession of Indian States.

AND WHEREAS provision for the constitution of a Federation of India has now been made in the Government of India Act, 1935, but it is by that Act provided that the Federation shall not be established until such date as His Majesty may by Proclamation declare and such declaration cannot be made until the requisite number of Indian States have acceded to the Federation.

AND WHEREAS the said Act cannot apply to any of my territories save by virtue of my consent and concurrence signified by my accession to the Federation.

NOW THEREFORE

I _____
(insert full name and title).

[Ruler of.....] (insert name of State).

In the exercise of my sovereignty in and over my said State

For the purpose of co-operating in the furtherance of the interests and welfare of India by uniting in a Federation under the Crown by the name of the Federation of India with the Provinces called Governors' Provinces and with the Provinces called Chief Commissioners' Provinces and with the Rulers of other Indian States

Do hereby execute this my INSTRUMENT OF ACCESSION
and

1. I HEREBY DECLARE that subject to His Majesty's acceptance of this Instrument, I accede to the Federation of India as established under the Government of India Act, 1935 (hereinafter referred to as "the Act") with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature,

the Federal Court and any other Federal authority established for the purposes of the Federation shall, by virtue of this my Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to the State of.....(hereinafter referred to as "this State") such functions as may be vested in them by or under the Act.

2. I HEREBY ASSUME the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.
3. I ACCEPT the matters specified in the First Schedule hereto as the matters with respect to which the Federal Legislature may make laws for this State, and in this Instrument and in the said First Schedule I specify the limitations to which the power of the Federal Legislature to make laws for this State, and the exercise of the executive authority of the Federation in this State, are respectively to be subject.

Where under the First Schedule hereto the power of the Federal Legislature to make laws for this State with respect to any matter specified in that Schedule is subject to a limitation, the executive authority of the Federation shall not be exercisable in this State with respect to that matter otherwise than in accordance with and subject to that limitation.

4. THE particulars to enable due effect to be given to the provisions of Sections 147 and 149 of the Act are set forth in the Second Schedule hereto.
5. REFERENCES in this Instrument to laws of the Federal Legislature include references to Ordinances promulgated, Acts enacted and laws made by the Governor-General of India under Sections 42 to 45 of the Act inclusive.
6. NOTHING in this Instrument affects the continuance of my sovereignty in and over this State or, save as provided by this Instrument or by any law of the Federal Legislature made in accordance with the terms thereof, the exercise of any of my powers, authority and rights in and over this State.
7. NOTHING in this Instrument shall be construed as authorising Parliament to legislate for or exercise jurisdiction over this State or its Ruler in any respect.

Provided that the accession of this State to the Federation shall not be affected by any amendment of the provisions of the Act mentioned in the Second Schedule thereto, and the references in this Instrument to the Act shall be construed as references to the Act as amended by any such amendment; but no such amendment shall, unless it is accepted by the Ruler of this State in an Instrument supplementary to this Instrument, extend the functions which, by virtue of this Instrument, are exercisable by His Majesty or any Federal authority in relation to this State.

8. THE Schedules hereto annexed shall form an integral part of this Instrument.
9. THIS Instrument shall be binding on me as from the date on which His Majesty signifies his acceptance thereof, provided that if the Federation of India is not established before the day of Nineteen hundred and , this Instrument shall, on that day, become null and void for all purposes whatsoever.
10. I HEREBY DECLARE that I execute this Instrument for myself, my heirs and successors, and that accordingly any reference in this Instrument to me or to the Ruler of this State is to be construed as including a reference to my heirs and successors.

THIS INSTRUMENT OF ACCESSION (then follows the attestation to be drawn with all due formality appropriate to the declaration of a Ruler).

Additional Paragraphs for Insertion in Proper Cases.

- A. WHEREAS I am desirous that functions in relation to the administration in this State of laws of the Federal Legislature which apply therein shall be exercised by the Ruler of this State and his officers and the terms of an agreement in that

behalf have been mutually agreed between me and the Governor-General of India and are set out in the Schedule hereto :

NOW THEREFORE I hereby declare that I accede to the Federation with the assurance that the said agreement will be executed and the said agreement when executed shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

B. THE provisions contained in Part VI of the Act with respect to interference with water supplies, being Sections 130 to 133 thereof inclusive, are not to apply in relation to this State.

C. WHEREAS notice has been given to me of His Majesty's intention to declare in signifying his acceptance of this my Instrument of Accession that the following areas

are areas to which it is expedient that the provisions of sub-section (1) of Section 294 of the Act should apply :

NOW THEREFORE I hereby declare that this Instrument is conditional upon His Majesty making such a declaration.

S. C. BISWAS,

Assistant Secretary to the Government of India.

FOREIGN AND POLITICAL DEPARTMENT ;

Simla, the 15th August, 1936.

Mr. S. Satyamurti : With reference to the answer to clause (h) of the question, may I know from my Honourable friend, under whose instructions, these points of doubt and difficulty will be cleared up, and whether any general principles have been laid down by the Government of India ?

The Honourable Sir Nripendra Sircar : Doubts and difficulties will be put forward before the officers by the Ruler concerned and if it is possible for the officer to elucidate the points he will do so. No general principles have been laid down.

Mr. S. Satyamurti : May I know whether, in respect of doubts and difficulties with regard, for example, to the subjects to be included in the federal list, in respect of each State, and secondly, with regard to the agency for the administration of such subjects in the States,—Government have laid down, or propose to lay down any general principles ? Or, do they propose merely to deal with each question as it arises ?

The Honourable Sir Nripendra Sircar : The latter part of the assumption is correct.

Mr. S. Satyamurti : May I know whether Government have laid down a minimum, below which the Government will not accept any instrument of accession, in respect either of the subjects to be made federal or of the agency to administer them ?

The Honourable Sir Nripendra Sircar : To the best of my belief each case will be considered on its merits. No general principles have been laid down.

Mr. S. Satyamurti : May I know whether the interests of the people of British India, who are also to be a party to the Federation, will be borne in mind by the Government, in helping these Princes to solve these doubts and difficulties ?

The Honourable Sir Nripendra Sircar : That will be borne in mind and that has been borne in mind without any unnecessary reminder by means of a supplementary question.

Mr. S. Satyamurti : I am thankful for its being said to be an unnecessary reminder ; but may I know what is the means which is available to the Government, by which they ascertain British Indian public opinion on this matter ?

The Honourable Sir Nripendra Sircar : Which matter ?

Mr. S. Satyamurti : That is to say, on the matter of securing the interests of British Indians in the proposed Federation *vis-a-vis* the Indian States.

The Honourable Sir Nripendra Sircar : I think that the materials are only too voluminous. We have had discussions at the Round Table Conferences, subsequent representations were made, and there is no lack of material to ascertain what British India wants.

Mr. S. Satyamurti : May I say this question was never discussed at any Round Table Conference ? The question of the proposed reservation of subjects by an individual State has not been discussed anywhere so far, and I ask my Honourable friend to tell us what are the means at the disposal of the Government, by which they propose to ascertain British Indian public opinion on these matters, which are now arising and may hereafter arise.

The Honourable Sir Nripendra Sircar : That must depend on what questions do arise. I cannot answer hypothetically what Government will do when a particular question is put up before them.

Mr. S. Satyamurti : I am simply asking,—each State is allowed under the Act to reserve subjects for itself and for the federal authority and also to decide the agency—I am asking, in view of the fact that, neither of these subjects has ever been discussed, what are the means by which Government propose to ascertain British Indian opinion, as to the advisability of accepting these reservations or otherwise ?

The Honourable Sir Nripendra Sircar : I think it is safe to assume that so far as British Indian view or opinion is concerned they will have as little reservation as possible.

Mr. S. Satyamurti : May I take it that the Government of India accept that position, that is to say, that they will not allow any Indian Prince to reserve any subject or to reserve its administration through his own agency, from this point of view that it should be as little as possible in every case ?

The Honourable Sir Nripendra Sircar : That must be a matter of opinion—as to what is as little as possible or as large as possible in a given set of circumstances.

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

TENDERS FOR THE RE-BUILDING OF QUETTA.

772. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether tenders have been accepted for the rebuilding of Quetta ;
- (b) if so, who these tenderers are—Indian or European ;
- (c) whether any non-Indian materials are being used in the reconstruction of Quetta and if so, what and why ?

- (d) who is the officer in charge of the re-construction of Quetta ;
- (e) whether any Indian Civil Engineers have been put in charge of this work, and if not, why not ;
- (f) whether any executive or assistant engineers or other gazetted officers have been put in charge of this work and, if not, why not ; and
- (g) whether they propose to take steps to see that the construction of at least of all civil works should be in charge of Indian gazetted officers, executive engineers and so on ?

Sir Aubrey Metcalfe : (a) Yes, for all work that is being taken in hand immediately.

- (b) Contracts Group I. Messrs. Gammon and Co.,
- Contracts Group II. Messrs. Martin and Co.,
- Contracts Group III. Messrs. Hindustan Construction Co., Ltd.,
- Contracts Group IV. Messrs. Hindustan Construction Co., Ltd.,
- Contracts Group VI. All-India Construction Co., Ltd.,
- Construction Group VII. Messrs. Krishan Lall Malhotra and Brothers.

(c) Indian materials are being used wherever suitable and available. Government are supplying such articles as cooking appliances, ovens, etc., of European manufacture, these not being obtainable in India

(d) The Engineer-in-Chief, Army Headquarters.

(e) No, since the existing Military Engineer Services Staff is available and adequate.

(f) Yes.

(g) All Civil Public Works in Quetta with the exception of those constructed by the Municipality are in charge of the Military Engineer Services. This arrangement has been in existence for many years, and for several reasons, including economy, it is not proposed to change it now. Three Indian Assistant Engineers are, however, already employed at Quetta on reconstruction work.

Mr. S. Satyamurti : I am sorry I did not follow the answer. It was read out fairly rapidly. May I know, with reference to clause (b) of my question, how many Indian and European tenderers are there ?

Sir Aubrey Metcalfe : I gave the names. It is not possible to say whether they are entirely European or Indian by their names. I should gather that certainly four of them are Indian and as regards the other two, Messrs. Gammon and Co. and Messrs. Martin and Co., I do not know how far the directorate is Indian or European.

Mr. S. Satyamurti : What is the total value of the non-Indian materials, which are being supplied by the Government for this reconstruction work ?

Sir Aubrey Metcalfe : I am afraid I must ask for notice.

Pandit Lakshmi Kanta Maitra : What is the value of the different species of tenders given to Indians and non-Indians ?

Sir Aubrey Metcalfe : I must have notice of that too.

Mr. M. Asaf Ali : May I know if these tenders were accepted on the basis of the lowest tenders or otherwise ?

Sir Aubrey Metcalfe : There again I must ask for notice. None of these questions have been asked and I cannot be expected to remember all these details without notice.

Mr. T. S. Avinashilingam Chettiar : May I know whether the materials were purchased direct or through the Indian Stores Department ?

Sir Aubrey Metcalfe : Same answer.

Mr. Lalchand Navalrai : May I know from the Honourable Member who is the final authority who accepts the tenders ?

Sir Aubrey Metcalfe : I think I have answered that. I think it is the Engineer-in-Chief, Army Headquarters.

Mr. Lalchand Navalrai : Is there any remedy for dissatisfied tenderers and if so, what ?

Sir Aubrey Metcalfe : No remedy that I know of.

DATES FOR THE ELECTIONS TO THE PROVINCIAL LEGISLATURES.

773. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether they have been informed by the various Provincial Governments of the dates of the Provincial elections next year ; and

(b) whether they have expressed their approval of the same, and what these dates are ?

The Honourable Sir Nripendra Sircar : (a) We have from time to time received provisional programmes for the elections to the new provincial legislatures, but the matter is one to be determined by each Local Government with reference to the conditions prevailing in their respective provinces.

(b) Does not arise.

Mr. S. Satyamurti : May I know whether Government have considered, or will consider the possibility and desirability of informing Local Governments that, as far as possible, elections should be over before this House meets again for the Delhi Session ?

The Honourable Sir Nripendra Sircar : I shall bring the suggestion to the notice of the Local Governments.

Mr. S. Satyamurti : May I know if the Honourable Member will be good enough to add a recommendation in favour of that course ?

The Honourable Sir Nripendra Sircar : I do not like to add a recommendation which may not be accepted.

Mr. S. Satyamurti : Will Government impress upon them the desirability of finishing the provincial elections as far as possible, before this House meets again ?

The Honourable Sir Nripendra Sircar : I shall point out that this is the point of my friend's supplementary question.

Mr. S. Satyamurti : I am not the Government.

The Honourable Sir Nripendra Sircar : Nor am I.

Pandit Lakshmi Kanta Maitra : Has the Honourable Member heard from the Provincial Governments about their provisional dates ?

The Honourable Sir Nripendra Sircar : They were published in the newspapers. I have not got them with me.

Prof. N. G. Ranga : Will Government ask the Local Governments to follow the usual practice of having general elections all over India on one date ?

The Honourable Sir Nripendra Sircar : I am quite prepared to forward the suggestion but I do not know how far it is possible to give effect to it.

Prof. N. G. Ranga : Will Government consider the advisability of suggesting to the Madras Government to follow the former practice which was much more convenient to the general public ?

The Honourable Sir Nripendra Sircar : The Local Government is in a much better position to arrive at a decision having regard to local circumstances.

Qazi Muhammad Ahmad Kazmi : The U. P. Government have fixed the 8th and 9th February for the election to the Provincial Legislative Assembly and that will be exactly the time when the Legislative Assembly will be in session. Will Government consider the advisability of asking the U. P. Government to have the elections earlier—by the end of January.

The Honourable Sir Nripendra Sircar : There may not be any possible date when my Honourable friend can serve two masters.

Mr. S. Satyamurti : I would really ask my Honourable friend to consider this subject seriously. Under the Government of India Act, 1935, the Federal Assembly will consist of members who are returned from these local assemblies. Will he, therefore, address the Government of Madras on this matter ?

The Honourable Sir Nripendra Sircar : You may have much more influence in Madras than myself.

FEELINGS OF MUSLIMS ON THE HAPPENINGS IN PALESTINE.

774. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the strong feeling of Indians and especially of Musalmans on the happenings in Palestine ;
- (b) whether they have brought this feeling to the notice of His Majesty's Government ; and
- (c) if so, with what result ?

The Honourable Sir Henry Craik : (a) and (b). I would refer the Honourable Member to the reply given by me on the 11th September to Mr. Asaf Ali's question No. 334.

(c) I am not in a position to make any statement in the matter.

Mr. S. Satyamurti : Are Government aware that martial law has now been proclaimed in Palestine ?

The Honourable Sir Henry Craik : An Order-in-Council to that effect appeared in the newspapers this morning.

Mr. S. Satyamurti : Have the Government of India taken any steps to represent to His Majesty's Government the strong feeling of Indians on this matter ?

The Honourable Sir Henry Craik : Yes, I have said so already.

Mr. S. Satyamurti : When did they send their last communication ?

The Honourable Sir Henry Craik : I cannot remember the exact date of any communication but communications are constantly passing.

Mr. S. Satyamurti : Since the Order-in-Council was passed, have Government taken any steps to bring to the notice of His Majesty's Government that their handling of the Palestine situation is likely to have very bad effects upon public feeling in India ?

The Honourable Sir Henry Craik : You mean the Order-in-Council that was published this morning ?

Mr. S. Satyamurti : Yes.

The Honourable Sir Henry Craik : No.

Mr. S. Satyamurti : Have Government taken any steps to bring to the notice of His Majesty's Government that Indian public opinion desires a better and a more harmonious solution of this problem, than the wielding of the big stick ?

Mr. K. Ahmed : In view of the fact that Lord Hardinge, *ex-Viceroy* of India, in the year, just after the war, in 1917, before the Balfour declaration placed himself on behalf of the Government of India and Secretary of State and gave an undertaking, do Government propose to see that the vow and the pledge and the solemn affirmation which they gave on behalf of Great Britain to the people of India and the Muhammadans of the world that they will not interfere with the Arabs enjoying their rights in their country, which is called the Jazirat-ul-Arab which includes Palestine and that Syria which was under the mandate of the French has already been freed from their interference ?

Sir H. P. Mody : The Honourable Member has exceeded his time limit. (Laughter.)

Mr. K. Ahmed : In view of the fact that Palestine did not receive just treatment and that adjournment motions and a number of questions have been disallowed in this House by the successor of Lord Hardinge
.....

Mr. President (The Honourable Sir Abdur Rahim) : I do not think the Honourable the Home Member has been able to follow this question. I must impress it on the Honourable Member, Mr. Kabeer-ud-Din Ahmed, that if he wishes to obtain any information on any particular question, he must make his questions as short and concise as possible.

FUTURE RECRUITMENT AND CONTROL OF THE INDIAN CIVIL SERVICE.

775. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled ' Role of the I. C. S.' in the *Hindu* of the 28th July ;
- (b) whether their attention has been drawn particularly to the criticism of the *Hindu* in the following sentence : " Here again the implicit assumption is that this predominance of the I. C. S., particularly of the British element thereof, in the District administration will continue intact for as long as we need care to look ahead " ;
- (c) whether their attention has been drawn also to the other criticism that the safeguards in the new constitution might easily encourage the Indian Civil Service to overstep the bounds of their authority and usurp powers which should properly be exercised by the Ministers ; and
- (d) whether they have definitely dropped the proposal adumbrated in the White Paper on reforms that an enquiry as to the future recruitment and control of the Indian Civil Service should be held within five years of the introduction of the new Constitution and if so, why ?

The Honourable Sir Henry Craik : (a) to (c). Yes.

(d). No, but as explained in the Home Department Press Communiqué, dated the 4th September, 1936, the enquiry will be held at a date not less than five years after the introduction of Provincial Autonomy and not within five years as stated by the Honourable Member.

Mr. S. Satyamurti : May I know the distinction between the two ?

The Honourable Sir Henry Craik : If the Honourable Member will look at paragraph 72 of the White Paper, paragraph 189 of the White Paper and then look at paragraph 298 of the Report of the Joint Select Committee, he will see the point. The White Paper recommended that it should be five years after the inauguration of Provincial Autonomy. The Joint Select Committee did not wish to pin down the Government to the exact date and said that it should not be less than five years.

Mr. S. Satyamurti : May I take it that the inquiry will be held any time after five years—ten years, fifteen years ?

The Honourable Sir Henry Craik : It will not be less than five years after the introduction of Provincial Autonomy.

Mr. S. Satyamurti : May I know then that the Government are not considering the question—because five years will take a lot of time yet ?

The Honourable Sir Henry Craik : It is not for this Government to decide ; it is to be a parliamentary investigation.

MOTION FOR ADJOURNMENT.

CONTROL OF THE SOLDIERS ON THE FOOTBALL GROUND AT ANNANDALE.

Mr. President (The Honourable Sir Abdur Rahim) : I have received 12 Noon. notices of adjournment motions in connection with the football matches in Simla, of practically the same purport. This is a notice by Pandit Lakshmi Kanta Maitra who wants to move the adjournment of the business of the House today to consider a definite matter of urgent, public importance, viz. :

“ Failure of the Defence Department of the Government of India to take proper steps for the control of the soldiers on the football ground at Annandale, Simla, yesterday, when, following a football match between an Indian team and a military one, the soldiers assembled there indiscriminately assaulted unarmed by-standers and onlookers including boys causing serious injuries.”

Is there any objection ?

The Honourable Sir Nripendra Sircar (Leader of the House) : Yes, Sir. I draw your attention to a previous ruling, No. 28, at page 29 of the “ Decisions from the Chair ”, which is as follows :—“ On the 16th July, 1930, Mr. Nehal Singh sought to move the adjournment of the House to discuss the beating of Congress volunteers by the police on the Simla Mall. Mr. Haig, speaking on behalf of Government, objected on the ground that the matter was not of sufficient public importance and suggested that the matter could be more conveniently dealt with by question and answer.

The President, upholding the objection, ruled as follows :

“ I quite agree with my Honourable friend, Dr. Nand Lal, that at this stage we need not go into the details of the case but should confine ourselves only to the constitutional issue of the motion before the House.

The matter to which this Motion relates is, no doubt, a definite one, and also a matter of recent occurrence. But the mere fact of its being definite and of recent occurrence is not sufficient for allowing a discussion on the motion. It must also be shown that it is ‘ urgent ’ and of ‘ public importance ’.

The action of ‘ pushing ’ and ‘ beating ’ by ‘ two European Police Officers at Simla ’ of ‘ two Congress volunteers ’, howsoever objectionable, unwarranted and undesirable it may be, cannot by any stretch of imagination be called ‘ urgent ’ and of ‘ public importance ’.

Motions for adjournment are meant for obtaining an immediate debate on grave and serious matters, which cannot otherwise be immediately and effectively dealt with, and the very object of such motions will be lost if they are permitted to assume the character of an ordinary course of action of every-day occurrence.”

Now, Sir, I rely on this principle. I submit that if there have been any assaults, the remedy is in the police courts.

Mr. President (The Honourable Sir Abdur Rahim) : The motion mentions “ serious injuries ” ?

The Honourable Sir Nripendra Sircar : That is a question of merits ; I am not going into that.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member any information ? It is a question of importance.

The Honourable Sir Nripendra Sircar : According to our information, there have not been any indiscriminate assaults. (Voices : No, no, no, no.” “ Oh ! Oh !”) I am giving my information, and my friends

[Sir Nripendra Sircar.]

say, "Oh, oh". I have got information that one boy has been injured. I take a lot of personal interest in the matter—I can assure my friends. My information is—I may be entirely wrong—that one boy has been injured and that he is not in a serious condition. My information is that the collar bone has either been injured or broken ; and I have no information of any indiscriminate assaults on by-standers.....

Mr. President (The Honourable Sir Abdur Rahim) : and of serious injuries ?

The Honourable Sir Nripendra Sircar : That is a matter of going into the merits.

Mr. President (The Honourable Sir Abdur Rahim) : Has any person died as a result of injuries ? (*Voices* : "Yes, yes.")

The Honourable Sir Nripendra Sircar : But I have no information. When did he die ?

Sardar Sant Singh (West Punjab : Sikh) : I am informed that he died this morning.

The Honourable Sir Nripendra Sircar : Are you certain ?

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Yes.

The Honourable Sir Nripendra Sircar : I have no information.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Mr. President, to use the language of my Honourable friend, the Leader of the House, matters of public importance must really be matters of public importance. I quite agree that the Honourable the President did say that the "pushing" and "beating" as he calls it by two European Police Officers at Simla of "two Congress volunteers" did not strike him as a matter of public importance, but the language of the motion clearly points to a very grave breach of peace committed by men who are employed for the purpose of protection. (*A Voice from the Official Benches* : "alleged to be committed.") And not only that but with reference to the previous incidents which I wish to remind this House of, the unlicensed nature of the acts of this class of people is certainly a matter of much graver importance and of much more public importance than the mere incidents which formed the subject-matter of the motion : I remember that was *sub-judice*.

The Honourable Sir Nripendra Sircar : This will be *sub-judice*. (*A. Honourable Member* : "Not yet.")

Mr. Bhulabhai J. Desai : I am saying that the ground on which that particular discussion was not allowed was that at that time the matter was *sub-judice*, and therefore I have not yet known that a matter which may not yet be *sub-judice* is barred from discussion.

The Honourable Sir Nripendra Sircar : It is *sub-judice* now.

Mr. Bhulabhai J. Desai : My friend has not stated that as an objection. He merely says.....

Mr. President (The Honourable Sir Abdur Rahim) : Has any man died as a result of the injuries ?

The Honourable Sir Nripendra Sircar : I did not know that the man is dead ; I want to inquire now. If he is dead, surely.

Mr. Bhulabhai J. Desai : The point, I submit, which the Chair is called upon to decide now upon the objection raised is whether this a matter of public importance or not. The objection raised is that it is not.

Mr. President (The Honourable Sir Abdur Rahim) : As objection has been raised, Honourable Members who wish that leave should be granted should rise in their places.

(More than twenty-five Members then rose.)

Very well, the motion will be taken up at 4 o'clock.

STATEMENT OF BUSINESS.

The Honourable Sir Nripendra Sircar (Leader of the House) : Will you allow me, Sir, to make a statement of the business.

You are aware, that the latest date hitherto appointed for a sitting of the House is the 8th October. The unexpected prolongation of the discussions on the Company Bill and the considerable volume of other business requiring to be disposed of before we disperse constrain me to request you to direct the House to sit for the transaction of official business on Friday, the 9th, and Saturday, the 10th October and for so many days beginning with Monday, the 12th October, as may be necessary to complete essential business. I can hold out little hope of essential business being completed before Saturday, the 17th October, and even so the business left over for Delhi will inevitably be formidable. In view, however, of the commencement of the Puja holidays on the 19th October, I do not propose to suggest that the House should in any event sit on a day later than Saturday, the 17th October. (*Voices* : Let us have night Sessions.)

Mr. President (The Honourable Sir Abdur Rahim) : I direct that the House will sit as proposed by the Leader of the House.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Cannot we do the business in a more expeditious manner by sitting longer hours or otherwise ?

Mr. President (The Honourable Sir Abdur Rahim) : We are doing that.

Mr. Bhulabhai J. Desai : I am not denying that you are doing your best.

The Honourable Sir Henry Craik (Home Member) : Curtail your speeches.

Mr. Bhulabhai J. Desai : I am afraid the Honourable the Home Member has selected a very wrong person for making that suggestion. He may have some jibes against some Members and they can square matters with him. But so far as I am concerned, I have done my best to assist the House in expediting the business. Therefore, may I request that, while your order stands, you will assist us by accepting such suggestions as we can make to shorten the duration which may, if necessary, extend to the period which you have announced.

Mr. President (The Honourable Sir Abdur Rahim) : If I have to ask the House to sit on Saturdays, it will be very difficult for me to expect the Honourable Members to sit every day from now till 6 o'clock. But I will do my best to help the House in getting through the business. That is all I can say.

RESOLUTION *RE* INTERFERENCE FROM PUBLIC SERVANTS IN
THE ENSUING ELECTIONS.

Dr. Khan Sahib (North-West Frontier Province : General) : Sir, last time, when I was addressing the House, I was saying that it was an important matter, and I say the same again, because, by the provincial elections, we are going to select people who will conduct the business of the province, though I myself do not believe in it. Government say that the provinces will become autonomous and the elected people will be responsible for their actions to the country. Now, Sir, I want the Honourable Members to listen to me patiently. I will just describe to them the facts which I have seen myself and nothing more, because I have not got enough time to describe all the events that have happened on the Frontier. I will ask especially those gentlemen, I mean the Knights—I should not call them the Knights of the Round Table—because, I am sure, if Sir Lancelot or Sir Galahad were here, they would not approve of it, to listen to me.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Will you move the Resolution first ?

Dr. Khan Sahib : Especially I would request the gentleman whose entertainments in this House are the side-show we do not pay for, I will now proceed straight to the facts. I went to Bahadar Kale, which is a village in Peshawar Tahsil, to address a meeting in the afternoon. There were about 6,000 people there. Before I arrived there, the Police had taken away the flags from our workers. They had stopped them to beat drums which they were doing to inform the people ; as they went to the place of meeting, they had put two men under arrest. When I arrived there, the meeting started. Three or four people who were retired pensioners and relations of an Honorary Magistrate, who has been created by the Government in that constituency in order to secure votes for their candidates, began to create disturbances. They abused some of the people and, believe me, the Police Sub-Inspector came up straight to the stage where I was presiding and he had the courage to tell me that the meeting should now be dispersed. I told him that I was responsible for the peace of that meeting and that no disturbance could be caused by a handful of people who are induced or instigated to cause disturbances. I told him to keep quiet and if anything untoward happened he can use his authority. Sir, I addressed the meeting. Those people ran about and abused but afterwards they got tired because nobody took any notice of them. This is a special point that I wish to bring to the notice of the House. The police in a meeting ought to be for keeping the peace and not for provoking the people to create disturbances. It was the duty of the police to arrest those people who were creating disturbances but they took no notice of them. Afterwards, when I was returning, there was a man with me in the tonga. The Sub-Inspector came to me and asked for his name. I said that I was not going to give him the name. Then, he said that,

according to the Tranquillity Act, he had the power to arrest the man. I told him he could do that, but he did not have the courage to arrest him. Afterwards we left the place and there was no disturbance. Then, Sir, on the 1st of July, 1936, when I left for Kohat, we had announced a meeting at Peshawar on the 3rd July, under the auspices of the City Parliamentary Board.....

Mr. President (The Honourable Sir Abdur Rahim) : Was it in connection with the elections ?

Dr. Khan Sahib : Yes, the meetings were in connection with the election campaign. I went to Kohat to address a meeting and the Senior Superintendent of Police sent a letter to the Secretary of the City Parliamentary Board saying that we could not take out a procession in Peshawar without taking a licence under section 30 of the Police Regulations. Immediately our Secretary applied for a licence and what did he receive ? Not the sanction but section 144. He sent me a telegram at once but it was never delivered to me. Such telegrams are generally mislaid for reasons, I could not explain. I went to Lachi from Kohat where, before my arrival the Police had taken good care to frighten the people on the streets and had told them that the Doctor was coming to address them and they must not go to the meeting. But the people did come and I addressed them. Then, I went to Karak. The Parliamentary Board of Tehri Tahsil had arranged a meeting there, the pensioners and some of the loyalists had collected there also. They first went to the Police and informed them that my presence there would create a disturbance. Then they went round to nearly every house in Karak telling the people that they should not come to my meeting, but when I arrived there all of them came to the meeting collectively. These pensioners told me not to mention certain things in the meeting. They were all collected in the house of a gentleman whom the Honourable the Foreign Secretary knows very well and who had provided *pulao* for them and they had come to that place to create disturbances. We had the meeting, it was very largely attended, and it continued for nearly six hours, those so-called loyalists had brought some dancing boys, and they were beating drums just a little distance away from us in order to attract the people to their side, but nobody took any notice of them. As a matter of fact, only a few of the loyalists remained there, most of them came to our meeting. Everybody present was convinced that the people who had put up a rival show were wrong and we were right. But then what did we see in the papers about a week after ? There is a gentleman on the Frontier who is well-known on our side and whose name, I think, I would be banned from mentioning.....

Some Honourable Members : Why ? Why ?

Dr. Khan Sahibbecause, I am sure, the Foreign Secretary will say that this gentleman is a distinguished civil servant, and so I must keep quiet (Laughter),—this gentleman had his son sent for, who is a Government servant, twice to Parachinar, dictated certain letters to be sent to the papers like the *Civil and Military Gazette*. Everybody knows what kind of paper this is. This paper wrote a note to the effect that we went there, we beat the drums and had gathered dancing boys to collect people but that nobody had turned up. Therefore, Sir, this is the type of propaganda you hear in the papers, but we don't mind all that, because those whom we are opposing know our innate strength, and they know in their

[Dr. Khan Sahib.]

heart of hearts that the people are with us. Then, Sir, I came back to Peshawar luckily on the morning of the 3rd, and as soon as I arrived, we issued a pamphlet stopping the meeting. Sir, section 144 was promulgated not only in Peshawar City, but five miles all round Peshawar. I must tell you the object of that. The object was that within a radius of five miles there were villages like Thehal, Landi and Chamkani which are well-known seats of Honorary Magistrates who are trying to oppose us. Here let me assure you, Sir, that they will get votes only if the polling officers record votes for them. (Laughter.) That will be their voting strength, and such people will come into this House and say that they represent the people of the Frontier.

Then, Sir, we had a meeting with the Deputy Commissioner of Peshawar as regards the promulgation of section 144. Now, let me first tell you what kind of District Magistrates we have. They are all military officers. They simply suffer from the disease of unfair discipline. They have learnt only to stand to attention and salute. This is the type of officers who are our judges. We have got our sessions judges who are military officers, we have got our District Magistrates who are military officers. What is the result? What happens? First of all, they have not got the patience to tolerate anybody's opinion. And, Sir, may I tell you what the D. C. first told me? He said: "We have got the power, and it is a favour that we are allowing you to contest the election". (Laughter.) I smiled at him. (Laughter.) I said, yes, you have got the guns, you have got the rifles and the machine guns, but we have got the people with us, we have got the real power. (Applause from Congress Benches.) He then told us—"Oh, section 144 is simply for prohibiting processions, we have not stopped your meetings". Then I informed him,—because they are very ignorant, they never go out of their bungalows, they only keep on writing letters, and naturally they know nothing of the people,—I told him that the little park which was fixed for the meeting was locked up and picketed by the police.....

Mr. K. Ahmed : Why, were they afraid of you?

Dr. Khan Sahib : I hope you will kindly keep quiet in your seat.

Then, in the course of our talks, I told him that we were quite ready to obey whatever order he gave me in writing. And what do you think he told me? He said, "No. I won't give you anything in writing" because he did not know what I might do with it. (Laughter.) Anybody who gives oral orders really means to disown the consequences when not favourable. That is the kind of District Magistrates we have to deal with in the Frontier. And, Sir, I tell you that it is good, because I go round, they know all what I say, Government knows every word that I utter in the Frontier, but they themselves don't want to reform their ways. And why are they afraid of us? Even one of the officials,—I know it from a loyalist,—told him, that it would be a good thing if the Red Shirts came in, because people were anxious to remove corruption, bribery and dishonesty from the Frontier, and the Red Shirts must be given power, because they are the only people who can purify the province administration.

Then, Sir, this meeting with the District Magistrate and S. S. P. was held on the 11th. On the 12th I was going to address a meeting under

the N.-W. F. P. Parliamentary Board, at a place about 13 miles from Peshawar. The first message I got on that morning was that the police were there with band playing and parading the streets of the village. This was a new thing. This was done in order to frighten away the people. Then they stopped our men from playing the band. But luckily their playing the band had brought together more of our people, and we had a good meeting. I explained to them that they were very lucky that day because the policemen had come there to entertain them. We did not mind all that, nor do we mind it at all, because it is all for our good, it is an advertisement for us, and the more the people know about these things, the more they will understand that we are the only deserving people who should be sent to the Councils.

Then, another meeting I was going to address at Naguman, which is about 11 miles from Peshawar city. I was due there at 2. But near Bhukhshupul, about 4 miles from Peshawar, unfortunately we had a puncture, and I was waiting there. Suddenly I saw three lorries full of armed police rushing along. I thought that most probably some raid had been committed by the Mohmands. But then I thought the days of those raids, which used to be induced by Political Officers, had passed. Then it occurred to me that most probably they were going to attend our meeting for our protection. (Laughter from the Congress Benches.) Luckily another car came and a gentleman sitting in it offered me his seat. I was then taken to the meeting place in time. When I reached the spot, I saw that the drums had been taken or snatched away from drummers, along with the flag.

An Honourable Member : Was it our flag ?

Dr. Khan Sahib : No, it was a common flag. Our flag could never find a place there. We are not allowed to have a Red Flag, we can't have it.

Then, I asked the sub-inspector whether he had any written orders. He said, " no ; we are not allowed to present you with any written orders, but we must stop you doing anything ". I told him " You cannot stop me ". Thereupon he took away the flag, when I remonstrated with him, he after some hesitation returned the flag. I took away the flag. Then 60 armed policemen came nearer and listened to me and I told them that even they should vote for the Red Shirts, if they had the voting qualification. Next time they were told not to come near us. Then there was a meeting at Paloussai which is a place just about 2½ miles from Tehkal, a well known place. On the previous day and in the morning of that day of meeting, because the meeting was held in the afternoon, armed policemen had gone to the villages and told them that they must not come to the meeting on the day of the meeting. The sub-inspector attacked some of the drummers, but our General Secretary was on the spot and he told the sub-inspector that there was no use of attacking the drummers and that whatever orders were given would be obeyed by the people. I think the sub-inspector felt ashamed of his action. Then we addressed a meeting there. The police party was composed of two sections at that meeting—the Pathans who were armed with *lathis* and the Sikhs who were armed with rifles. Up till now, I have not been able to solve the problem of what that meant. Another meeting was held just two miles from Pishthakhera near Bara

[Dr. Khan Sahib.]

river at the place convenient for both the Khalils and Mohmands to collect, when some of the volunteers were coming through the village of Mashukheil, they were attacked by the police and beaten, one drum was broken into pieces. I examined all these people myself and I took the broken drum in my possession after the meeting, the next day I sent the drum to the Senior Superintendent of Police with a letter. He wrote back a nice letter to me, I must say in fairness, and he said he did not know anything about it and he promised to make an investigation. I know he did make an investigation because the sub-inspector who broke the drum went to the drummer and took him to the police station and offered him a bribe of Rs. 10 if he would say that he dropped the drum and it broke.

I started on another election campaign on 31st July again to Kohat and in the afternoon I addressed a very large meeting in Kohat. Then in another village about six miles from Kohat, I addressed another meeting and at night we arrived at Hungu. We had really a very large meeting there. As soon as it was known that the tour was successful, then at the next meeting at Naryab, a village near Ilungu tahsil we were again faced with armed constabulary. We had a good meeting there and I gave the armed police good advice and I suppose it had good effect on them. The next meeting was at Darsamand where the previous day, the Naib Tahsildar or the Revenue Assistant or whatever you call him had gone there and he had told the people that he had received orders about my arrival at Darsamand telling them that if anybody attended the meeting which might be addressed by me, machine guns will be brought and they will be fired at. I arrived there all right but no machine guns stopped me. The Pathans had come to attend my meeting. I said all I wanted to say in my speech and Government knows all that. They cannot say they do not know anything. I never keep these things hidden. I explain everything in my speech and I make it a special point to have the Government C. I. D. stenographer by my side when I am addressing meetings so that he might not miss even a word of what I say. After going to one or two more places, I then went to Bannu where I arrived and addressed a meeting in the public park. There was a curious incident that happened there. Another distinguished civilian, a brother of the former, had three or four drummers and he came personally with these drummers to a distance of about 30 yards from our meeting and started dancing and beating the drums and playing music with a view to drown our meeting in the noise.

Sir Aubrey Metcalfe (Foreign Secretary) : He retired many years ago.

Dr. Khan Sahib : But still he is as distinguished as the other one. When the police went to him and asked him to stop beating of drums and playing of music, he demanded an order in writing to the effect because he said he had authority for doing what he did. We did not mind these drummers. They can go on with their business, but the trouble is how to keep our men in check from molesting them or doing anything which would hurt them. This is the work of Government which I am doing and the Government ought really to be thankful

to us and protect us and not provoke us. My chief work on the Frontier is to go on helping the Government by making speeches, but I do not understand why Government do not like me. All the meetings that I addressed were election meetings. Then, Sir, on 25th August we had a meeting at Sawali where about 15 thousand people attended. It appears that, the police in their actions had cooled down a bit. They had confined their activities to merely taking down the names of drummers. When I called the policemen and asked them under what section they were taking down the names of drummers, they did not tell me. Probably it was under some section in the Tranquillity Act or whatever you call it. I should like now to draw the attention of the House to one thing more. In Zeyarath Kaka Sahib which is in Nowshera tahsil, a meeting took place and afterwards Samin Jan Khan, B.A., LL.B., who is a Member and one of the General Secretaries of the Frontier Province Parliamentary Board was arrested. He was tried. For what offence? For the offence of praising the Red Shirt. If we do not praise Khudai Khidmatgar how are we going to ask the people to give us vote. Was it an offence? Yet he was tried under section 17-A for being a Member of an unlawful assembly, because he mentioned the name of Red Shirt. So he became a member of an unlawful assembly, an assembly which did not exist. Then, Sir, let me tell you another secret how these things happen. We came to know that the Minister told one of the men, "Don't bother, he will be only fined something whether he is guilty or not guilty". The officials are of a vindictive nature and they want to condemn us for nothing. He was fined Rs. 30 so that he could not appeal. They are very clever; and the judgment has not been written up till now. (Laughter.) We asked for a copy and up till the 22nd of last month no copy could be obtained.

Captain Sardar Sher Muhammad Khan (Nominated Non-Official) : It is a *jirgah* and there is no written judgment.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has no more time.

Dr. Khan Sahib : I will finish soon, Sir.

To sum up, our adversaries, the enemies of the Congress are overjoyed at our dissensions. They naturally make the most of certain passages in the speeches of our leaders where they refer to the mistakes and shortcomings of the Congress. They try to exploit these admissions for their own purposes. Congressmen have been in the field so long that they will absolutely ignore such pin-pricks. They will, I am sure, in spite of them go on with the work of self-criticism. They will continue unsparingly to expose their own weaknesses which will inevitably disappear as our movement gathers strength and completes its training. Sir, the attitude of Government towards its own mistakes is one of the surest tests of its seriousness and its ability to fulfil its duty towards the people of the country. A frank admission of its error, discovery of its causes, analysis of the situation in which it occurred, careful study of the ways by which the mistake can be remedied,—these are the signs whereby a good government can be recognised. I am sure the House will agree with me that the

[Dr. Khan Sahib.]

present Government as it is constituted is devoid of all these signs, and the Executive Councillors who adorn the benches opposite always try to wriggle out of situations on flimsy excuses, and very often to save their faces take protection under the wings of the wonderful Knights who have been specially created for this purpose by the Government. They are wonderful because originally the Knights were created for their chivalry while these grandios are graded on account of their loyalty to their benefactors. They are an embodiment of both loyalty and disloyalty and I am sure when the Honourable the Law Member was stating the other day in the House that Government consulted both loyal and disloyal opinion on Bills, he must have had these enlightened gentlemen in view (Laughter), because they are the only individuals who are consulted and who combine in them both these qualities of being loyal to the Government and disloyal to their country.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has really exceeded his time and must bring his remarks to a close.

Dr. Khan Sahib : I will finish in one minute, Sir. The people of this country have made certain sacrifices and the Government have agreed to part with a little power. Here now I am concerned with the Frontier. It appears to me very unfair that they want to hand over the reins of administration not to the real representatives of the people but to those who have been brought up by them in the school of serfdom and who are remarkable for less than nothing. They are political dilettantes without any programme and at the head of them the Government want to place two sycophants with a strong dislike for excitement and truth and with an extraordinary hatred for each other.

Mr. President (The Honourable Sir Abdur Rahim) : Resolution moved :

“ That this Assembly recommends to the Governor General in Council to take immediate steps to secure that public servants do not interfere directly or indirectly in the ensuing elections to the Reformed Legislatures.”

Does Sir Muhammad Yakub wish to move his amendment ?

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammeden Rural) : Yes, Sir.

Mr. S Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, I rise on a point of order. The Resolution runs thus :

“ This Assembly recommends to the Governor General in Council to take immediate steps to secure that public servants do not interfere directly or indirectly in the ensuing elections to the Reformed Legislatures.”

And the amendment says that at the end of the Resolution the following be added :

“ But unruly conduct, demonstrations which are likely to cause the breach of peace, the singing of provocative songs and slogans and pronouncing religious ban against any candidate or persuading voters to vote or not to vote in the name of religion should be stopped,” etc.

If you will look at the Standing Orders governing amendments, you will notice that the first standing order says that an amendment

must be relevant to and within the scope of the motion to which it relates. I submit this is neither relevant to, nor within the scope of the motion. All these are offences against the Indian Penal Code, and it is on that presumption that public servants will take necessary measures under the law of the land. What the Resolution seeks to aim at is to stop interference in elections by public servants using their influence for purposes which are not germane to the normal discharge of their duties. Therefore, to take advantage of a Resolution which merely wants Government to take steps to impress on public servants not to interfere in the elections, and to move an amendment asking them to uphold the law is, I submit, neither relevant, nor is it within the scope of the Resolution.

Mr. President (The Honourable Sir Abdur Rahim) : Supposing interference is called for in the interests of maintaining order, what then ?

Mr. S. Satyamurti : Nobody suggests that a public servant discharging his normal duties as a public servant, vested with certain powers and certain duties, is interfering. The word is "interfere", that is to say, that he does something out of the way, in order to persuade or dissuade the voters.

Mr. President (The Honourable Sir Abdur Rahim) : Suppose the amendment said, "except in the discharge of his duties in accordance with law", what would you say to that ?

Mr. S. Satyamurti : Then, I have got two answers to that question. First of all, being in that form, it may be relevant,—I do not say anything about that. But the major point is this. This Resolution does not contemplate, and in the very nature of things it cannot contemplate,—and you would not have admitted it if it were so,—that a public servant ought not to discharge his legal and constitutional functions.

Mr. President (The Honourable Sir Abdur Rahim) : I have to see not what is contemplated but what the words are and the natural meaning of the words.

Mr. S. Satyamurti : It is interference with elections, not with the ordinary duties, relating to breaches of the law, which a Government servant is called upon by the very nature of his office to deal with.

Mr. President (The Honourable Sir Abdur Rahim) : The words are "in the ensuing elections".

Mr. S. Satyamurti : It means interfering with the freedom and the right of the voter to vote for A or X as he chooses.

Mr. President (The Honourable Sir Abdur Rahim) : That may be one meaning.

Mr. S. Satyamurti : May I put it the other way ? You would not have admitted it, if the Resolution could possibly have meant any suggestion that public servants should not do their legal duty. No House in the world can consider a Resolution asking public servants not to discharge their normal duties. The point is that a Resolution like this can only aim at something extra-legal, extra-constitutional.

[Mr. S. Satyamurti.]

That is what we want to hit at. I, therefore, submit that, on both these grounds, on the ground that these are matters within the purview of the Indian Penal Code, and secondly, that no Resolution can be in order which seeks to cast on public servants the duty of not discharging their duties, I submit the amendment is neither relevant to, nor within the scope of the Resolution.

Sir Muhammad Yakub : Sir, I beg to move the amendment.....

Mr. President (The Honourable Sir Abdur Rahim) : No, no. I am asking the Honourable Member if he has anything to say on the point of order that has been raised.

Sir Muhammad Yakub : Sir, the underlying principle of this Resolution is that there should be no outside interference or coercion in the elections. (Interruptions)..... Mr. President, I want to seek your protection from the unruly mob on the Opposition Benches. For half an hour we have listened with rapt silence, without any interjection, to the speech which was delivered by my friend, the Honourable Mover of the Resolution. Now, when anybody stands up from this side, these apostles of peace and non-violence, who claim to be the pioneers of democratic institutions in India, interfere in such a way that they do not have patience to listen to the opposite point of view. I appeal to you, and through you to the Leader of the Opposition, that he will control the mob behind him and see that the dignity of the House is not spoiled, and we are allowed to place our views before the House.....

Mr. M. Asaf Ali (Delhi : General) : On a point of order, Sir, may I know if the word "mob" applied to Honourable Members of this House is a parliamentary expression ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member will first reply to the point of order raised before.

Sir Muhammad Yakub : If I am allowed to speak on the point of order..... (Interruptions.)

Mr. President (The Honourable Sir Abdur Rahim) : I do hope Honourable Members will not interfere. I have noticed that whenever any Honourable Member gets up and says anything which Honourable Members on the opposition side do not agree with, they go on interjecting. It is not fair.

Mr. S. Satyamurti : On a point of order, Sir. That, if I may say so, is right. But if any one calls us a mob, we are tempted to behave like a mob, unless you call him to order.

Mr. President (The Honourable Sir Abdur Rahim) : I am not quite sure on the point and so I am not going to give my ruling on it at once.

Sir Muhammad Yakub : Aspersions were just now cast on us : we were called traitors : we were named enemies of the country and what not ; and nobody ever stopped it. People who live in glass cases must not throw stones at others.

Mr. President (The Honourable Sir Abdur Rahim) : I want to know what the Honourable Member has to say on the point of order.

Sir Muhammad Yakub : Really, Sir, it is for you to say once for all whether we should speak or not in this House, whether we should remain in this House or not. If we are to be bullied in this way, then I think it would be better if you tell us that we should leave the House. But we cannot carry on in the way in which we are being bullied every day. I would seriously draw your attention towards this phase of the debates. We have been in the House for the last twelve years : there was the Congress Party before.....

Mr. President (The Honourable Sir Abdur Rahim) : I do not think the Honourable Member need dwell on that. I have tried my best and am trying my best to keep order and I expect that Honourable Members on my left will show some patience and tolerance when Members who do not agree with their views address the House.

Sir Muhammad Yakub : As regards the point of order. I beg to submit that whatever may be the wording of the Resolution, the principle underlying the motion is that there should be no outside interference on behalf of anybody during the elections. I submit that interference is interference, whether it is made on behalf of an official or on behalf of a non-official. We know that the law on this point is quite clear, that no Government servant can interfere in the elections.....

Mr. President (The Honourable Sir Abdur Rahim) : Very well : the Honourable Member can move his amendment now.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore cum North Arcot : Non-Muhammadian Rural) : May I know your ruling on the point of order raised by Mr. Asaf Ali ?

Mr. President (The Honourable Sir Abdur Rahim) : I will give my ruling as soon as I find out some authority. I have asked Mr. Satya-murti to find out whether that expression is unparliamentary or not.

Sir Muhammad Yakub : I beg to move the amendment which runs as follows :

“ That at the end of the Resolution the following be added :

‘ But unruly conduct, demonstrations which are likely to cause the breach of peace, the singing of provocative songs and slogans and pronouncing religious ban against any candidate or persuading voters to vote or not to vote in the name of religion should be stopped by the local authorities with strong measures ’.”

I quite agree with the principle underlying the Resolution which has been moved by my Honourable friend, Dr. Khan Sahib. While on the one hand I am anxious that there should be no official interference or coercion during the ensuing elections, I am equally anxious that there should be no coercion, and interference on the part of the so-called non-violent, deliberate and provoking Congress volunteers and their associates, the Jamiat-ul-Ulema Hind, Delhi, and other kindred associations. I cannot swear that Government officials, sometimes, do not show their sympathy towards any candidate or even that they do not, sometimes, support certain candidates. Of course, it is altogether natural and we cannot expect Government officials to be celluloid toys or stone idols who will be void of human sentiments and human feelings. But what I submit is this : that this interference, which has come to my knowledge also, is not on behalf of the Government or in pursuance of any order of the Government. So far

[Sir Muhammad Yakub.]

as the U. P. is concerned, I know that the U. P. Government have issued strict orders to the district officers not to interfere in any way during the elections.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Excepting the Governor himself !

Sir Muhammad Yakub : But expression of opinion of course is quite natural. (Laughter.) I mean to say, individuals cannot be devoid of human feelings. But what I submit is.

Mr. M. A. Jinnah : May I ask the Honourable Member whether he is aware that even the Governor of the United Provinces has tried to interfere ?

Sir Muhammad Yakub : Probably my Honourable friend is in the secrets of the Governor of the United Provinces. But I am not.

Mr. M. A. Jinnah : I have got information. Can you deny it ?

Sir Muhammad Yakub : So far as I know, it is not a fact.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : On a
1 P.M. point of order, Sir. The electorates under the Act are communal and religious, and how can there be any ban on religious propaganda ? The amendment is barred from this point of view.

Mr. President (The Honourable Sir Abdur Rahim) : That is no point of order.

Sir Muhammad Yakub : But this expression of sympathy on the part of certain Government officers is not the monopoly of only those candidates who belong a certain school of thought. On the other hand, my own personal experience is, that more Congress candidates are benefited by this sympathy on the part of Government officials. It came to my knowledge, and it is my personal experience, that during the last election to the Assembly, my opponent, who was a declared Congress and Jamiat-ul-Ulema candidate, had the sympathy and support of many Government officers. (Interruption.)

Mr. K. Ahmed : Is it a fact that he got a lot of money from the Leader of the Congress Parliamentary Board ? (Laughter.)

Sir Muhammad Yakub : My submission is this, that this expression of sympathy, or may be assistance in certain cases, is not so coercive and does not so much prejudice the judgment of the voters as the highly objectionable coercion and methods which are adopted by the Congress volunteers. They create lawlessness at the polling booths. They have torn the voting papers, and they have committed atrocities of all sorts, so much so that the police had to open fire in order to restore peace. We need not go very far off. Only the other day my Honourable friend, Sir Cowasji Jehangir, wanted to address a meeting in Poona and we have seen in the papers how that meeting was molested and how, not only hooliganism was introduced, but rotten eggs were thrown at him.

Mr. President, we are on the threshold of the introduction of democracy in this country and we know very well that for the first time a democratic constitution is being introduced in a country the soil of which has

not yet borne ripe fruit of democracy. And if India is to be governed by a democratic constitution, then it must be the duty of every patriotic Indian to see that traditions and precedents of a proper kind are established. Otherwise, the whole structure will tumble down in no time. Mr. President, we all know that democratic institutions are run mostly by precedents and traditions rather than according to the written law, and unless care is taken that traditions and precedents of a sound or proper kind are established, I am afraid we will never reach the goal of our aspirations. Now that the new Constitution is to be introduced, the Government will be formed by non-officials, and the non-official supporters of the Cabinet, who will be extremely anxious to see that their friends retain their offices in the Cabinet—their interference and coercion will be much more intolerable and mischievous than any coercion on the part of anybody else, because even the Government servants, who will be subordinates of the Cabinet, will think that they have the backing of the Cabinet behind them, and therefore, even Government officials will be afraid of putting a stop to their activities. Therefore, it is extremely necessary that Government officers should be admonished that lawlessness and hooliganism on the part of anybody should not be allowed.

Sir, all that we want is that a voter should be left free to exercise his own judgment, and interference on the part of non-officials cannot be any more tolerated than interference on the part of officials. There must be even-handed justice and both parties should be treated equally. We must give a lead to the Government that hooliganism, lawlessness and singing of provocative songs and slogans, as is usually done by the Congress volunteers, bringing in the name of religion and abusing the name of religion in the elections, preaching from the pulpit that a man will go to hell if he votes for such and such a candidate or that his wife will be divorced if he votes for such and such a candidate—these things should be stopped.

Mr. N. M. Joshi (Nominated Non-Official) : It is illegal.

Sir Muhammad Yakub : Legal or illegal—my dear representative of labour, you go on interjecting and smiling like this. I think the Honourable Member should behave himself properly. Sir, it may be argued that the existence of coercion and lawlessness, instances of which I have given, may form a valid ground for invalidating an election in an election petition. But, then, coercion on the part of Government officials can also form a good ground for setting aside elections. Nevertheless, after a man has lost on the election booth, it would be very hard and very difficult to expect that he should get his redress by the expensive and very difficult course of filing an election petition. I have got nothing more to say, but in the end I would again appeal to my Honourable friends on the Opposition Benches that they should, on this occasion, show their capacity to shoulder responsibility. If they want to come into power, they should behave like responsible persons and like persons who have been in office. They must see that justice is done even-handedly to all parties in the country and that there is no coercion or intimidation or molestation during the elections on the part of anybody, whether it may be an official or a non-official. With the addition of this amendment I will heartily support the Resolution.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That at the end of the Resolution the following be added :

‘ But unruly conduct, demonstrations which are likely to cause the breach of peace, the singing of provocative songs and slogans and pronouncing religious ban against any candidate or persuading voters to vote or not to vote in the name of religion should be stopped by the local authorities with strong measures ’.”

We have now both the Resolution and the amendment under discussion. I need not point out how the Resolution would run if amended in the form proposed. Both the Resolution and the amendment are now under discussion.

The Honourable Sir Nripendra Sircar (Law Member) : I do not know whether you would like me to begin now. There are only three minutes more to quarter past one. I think we can come back at 2-25 if you desire it.

Mr. President (The Honourable Sir Abdur Rahim) : The House stands adjourned till 2-30 P.M.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

The Honourable Sir Nripendra Sircar : Sir, I think it will have a pacifying effect on my friends opposite if I say I shall be very brief.....

Mr. S. Satyamurti : It will be very nice.

The Honourable Sir Nripendra Sircar : Let us see how we get along.

Sir, on behalf of the Government, I am authorised to accept, and I do accept this Resolution..... (“ Hear, hear ” from the Congress Benches.) Wait till the end.....

Mr. S. Satyamurti : That is very nice indeed.

The Honourable Sir Nripendra Sircar : I am authorised to accept the Resolution as also the amendment, and I say either or both of them. (“ Hear, hear ” from Congress Benches.) I maintain, Sir, that non-interference in elections by Government servants has been the policy of Government—I am not talking of public servants in the sense used in the Resolution, because there are public servants who are not Government servants, like the servants of the Calcutta Corporation, who have decided to take part in elections, I am not concerned with them,—I am confining myself only to Government servants.....

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Do you include Honorary Magistrates ?

The Honourable Sir Nripendra Sircar : If my friend will not insist on the time limit of 15 minutes, I shall welcome his interruption, otherwise the best course is for me to ignore it.

Sir, I maintain that non-interference by Government servants in elections ought to be and has been the policy of the Government. I state that deliberately, and I assure the House that that policy will be continued. I may further state that I desire to make it perfectly clear that while accepting this Resolution and the principle enunciated in it, I am not admitting the charges which have been made by my friend, Dr. Khan Sahib. I will leave that matter to be dealt with by people who have better knowledge of the province than myself. The general impression, Sir, left on my mind by the Honourable the Mover's speech is, that far from having a grievance, he was having his way all the way through, and in the end he succeeded in getting a number of policemen converted to the Congress creed. (Laughter.) So I don't think he can really have any grievance. And about the breaking up of the drums and so on, I have not yet heard what the result was ; perhaps one drum less in the Frontier Province, will not make much difference. (Laughter.)

Now, Sir, when it is remembered that Government servants run into tens of thousands, it is quite easy to imagine, and I find it quite possible to believe that there will be cases, however few they may be, where instructions given, orders issued or steps taken by Government become ineffectual. I say that not as an excuse, but as an explanation. I would also ask the House to remember that Government servants have now got to adjust themselves to rapidly changing circumstances. ("Hear, hear" from Congress Benches.) As I said, Sir, I do not offer this an excuse, but that is an explanation and a factor which has got to be borne in mind in allocating or apportioning the degree of blame, if any, which has got to be attached to Government servants or their masters, the Government. Sir, if there has been a failure, if there has been a breach of the instructions which have been issued or of the orders given by Government, it is not because Government directed or desired them or encouraged them to act in the manner they did, or because Government acquiesced in their actions, but they have happened in spite of the Government having taken all steps. I ask the House also to consider whether it is not inevitable that where the organization is so very large defections are bound to take place in spite of all reasonable steps taken by high authorities. Some speaker, I believe it was my friend, Sir Muhammad Yakub, referred to the incident of my friend, the Baronet from Bombay. I was not there, and I am not going to discuss that, but all that I could judge from reading the papers was that as usual fortune smiled on my friend, because the crack shots all missed their mark when they threw eggs at him. But the point to be remembered is that if people in a disgraceful manner interfered with my friend's electioneering campaign, are the authorities,—and I do not use it in any sarcastic sense,—is the high command to be responsible for what happened, not on account of them, but in spite of their instructions to the contrary ? Sir, the House will remember that after that incident statements were made by very responsible persons like Mr. Nariman, the head of the Congress in Bombay, and others, in which they unequivocally condemned this interference with my friend's election. I ask this House to consider whether that is not possible or whether that is not probable with the organization of the Government. I do not, Sir, for one moment suggest that two wrongs make a right. I do not suggest that because some others interfere with elections that

[Sir Nripendra Sircar.]

is any justification for Government servants behaving in the same way. If we condemn interference on the part of others, it is up to us to see that Government servants don't behave in an equally blameworthy manner. Sir, it may be said : " Oh, it is all very well to make your professions, but what happens in practice ? " As regards that, I will remind the House of Bengal,—I cannot talk of all provinces,—but the matter was recently in the lime light in Bengal due to a letter written by my friend, Mr. Fuzul Haq, to Sir John Anderson, and in his reply, although it was not addressed to Mr. Haq, it was a kind of a communiqué and it referred to that letter,—in that reply Sir John Anderson said that definite instructions had been issued to district officials to observe the strictest neutrality in elections, and I believe, Sir,—I speak subject to correction.—that some of the Calcutta Dailies were quite satisfied with that statement of Sir George.....

Pandit Lakshmi Kanta Maitra : But all the same the activities of the district officials go on as before.

The Honourable Sir Nripendra Sircar : All the same the activities of the Congress officials also go on as before.

I hope my friend, Mr. Maitra, will curb his impatience, because, as I said I want to finish very soon.

Pandit Lakshmi Kanta Maitra : You are entitled to thirty minutes, and you can go on for half an hour if you like.

The Honourable Sir Nripendra Sircar : No, Sir, I am not under the rules. At any rate, you are not occupying the Chair. (Laughter.) As I said, I do not propose to detain the House longer. I referred to Bengal. I refer also to the statement which was broadcasted by the present Governor General when he arrived here. Charges will be made and it will be said " Oh, but thousands of incidents are taking place today and everyday ".

Pandit Lakshmi Kanta Maitra : Yes.

The Honourable Sir Nripendra Sircar : Before you had shaken your head, I knew it would be like that but as an instance of the irresponsible way in which charges are made, may I give an instance from what happened today. I asked my friend, Mr. Satyamurti, this morning whether he was sure that a certain person was dead, on the strength of which an adjournment motion was allowed. He said ' Yes, I am sure '. But I said that my information is to the contrary and then there was a chorus of twenty voices ' I know ' but may I inform the House that I was right and the fact is that not only the boy is not dead, he is not dying, he is not grievously hurt, there is no compound fracture, he is not even in the hospital and this is the information received from the boy's father at 1 o'clock.

Pandit Lakshmi Kanta Maitra : We shall discuss it now. I will give you the other side of the picture.

The Honourable Sir Nripendra Sircar : You will give many sides of the picture in fifteen minutes. I know my friend's object in this interruption is to take me away from my line of argument. I brought this up to show that because the charge is made it does not necessarily

follow that it is correct. I would not have referred to the incident but for my friend's interruption.

Mr. M. Asaf Ali : The Honourable Member said this morning that this boy's collar bone was broken and now he says that he is not grievously hurt.

The Honourable Sir Henry Craik (Home Member) : You said he was dead.

(Mr. Asaf Ali rose to interrupt.)

The Honourable Sir Nripendra Sircar : I am not giving way. If Mr. Asaf Ali will not be so impatient, I will remind him of the exact words I used. I said that my information was that his collar bone was either broken or injured. You will find that from the report. Please don't interrupt.

Mr. M. Asaf Ali : In both cases it would be grievous hurt.

The Honourable Sir Nripendra Sircar : It is not grievous hurt. Why is my Honourable friend trying to draw a red herring across the trail. He made the assertion ' I am sure the boy is dead '. That was supported by a chorus of twenty voices and that was repeated and he is now indulging in fine distinctions as to whether the collar bone was injured or he was merely hurt and so on, to cover the misstatement about death, so confidently asserted by his friends for getting the adjournment motion admitted.

I would also like to state to the House that I am not urging for one moment that because acts done by Government servants have been done without the knowledge of the highest authorities or even of their immediate superiors, it follows that there is no responsibility on Government. I have been a lawyer for a pretty long time and one thing I know is that the master is responsible for the wrongs committed by the servant in the discharge of his duty in ordinary course. Therefore I am not going to say that the Government should take shelter under the plea " we do not know what is going on " although that may be a relevant fact in assessing the degree of blame to be attached to the Government as a whole. Sir, I would have been briefer but for my friend, Mr. Maitra's impatience and I propose to resume my seat after once more repeating that we accept the principle of this Resolution. We do not admit that it has been broken with our knowledge or acquiescence, or that it has been except possibly in a few cases. Those are questions of facts, and so far nothing has been alleged except about North-West Frontier Province. I am not competent to deal with this and my time is nearly up. I will end by saying that it is the desire of Government to take serious notice of breach of neutrality which is proved or brought home against public servants. When I say breach, I mean proved breach, not mere allegations. We know that allegations are sometimes made which are not correct. Supposing one were to judge the conduct of the biggest party here by reading the columns of the *Justice*. Are those charges made there daily, over which columns are spent, necessarily true? They may or may not be true. The flaring headlines appearing in that paper, do not, I submit, prove that congressmen in Madras are guilty of the thousand and one charges which are levelled against them in that paper.

[Sir Nripendra Sircar.]

Well, Sir, I have nothing further to add and I repeat that Government will take serious notice of breaches of neutrality in elections on the part of Government servants.

Maulana Shaukat Ali (Cities of the United Provinces : Muhammadan Urban) : I rise to support the Resolution, and I am very glad indeed that the Honourable the Law Member has accepted it and has promised to do his utmost to see that no official, either directly or indirectly, takes part in the coming elections. That is a very useful gain that we have achieved today by this Resolution which my Honourable friend, Dr. Khan Sahib, has introduced. I oppose the amendment which the Honourable the Knight from Moradabad moved in this House. I am sorry he is not here. Otherwise he would have been forced to accept the justice of my remarks, because if there had been fair-play in the election in which I had to stand against him, this wonderful Knight would not be sitting in this House. (Laughter.) I want to tell the Law Member and other officials that in the course of my election I had to deal with four district officers and in honour I am bound to say that I have received absolute and strict impartiality from three officers but not from the one with whom I had to deal originally, that is at Moradabad, where I had to stand against Sir Muhammad Yakub. I am sorry he is not present in the House now. He tried to cajole me and threaten me not to stand against him but I would not follow his advice. He wanted me to retire. He tried to impress on me that as I was new to these elections, having boycotted the Assembly from its inception, that all elections especially in the mofussil and in the rural areas depended upon the support of the officials, and sub-inspectors, patwaris, and chaukidars, played an important part in them he wanted me to retire. I said that I was capable to take care of myself. All his arguments failed, and, if I had only fair dealing, this Knight would not be sitting here in this House. I was not a member of the Congress. Wherever I went, the first thing I did was to pay a call of courtesy on the District Magistrate and I told him that he should look to it that there was no bribery and corruption, on the part of all contestants and that I wanted the suffrage of the Muslims only and that I did not want any favour from anybody else. I regret that for the sake of old friendship from Aligarh with the great Knight of Moradabad I did not introduce the subject here before, but when gentlemen like him come here and make every day all sorts of provocative speeches and remarks and call people names and abuse them, knowing very well that the officials will be pleased and support them and when others retaliate they come to you, Sir, and say, "for God's sake protect us from the wrath of these people",—that is not fair play (Laughter), that is not worthy of a Knight. Sir, he should have the courage of a Knight and not that whining spirit, that timidity. It is all very well for my friend to have moved this amendment here, but if he had made such a speech at any public meeting of the Mussalmans where members of the Jamiat-ul-Ulema and other Muslim bodies were there, I am positively certain that not only would he have had rotten eggs thrown at him but something far more serious would have happened to him. (Laughter.)

Sir, during the last election I was umpired out on the ground that I had no residence in Moradabad but luckily I had my name entered elsewhere also. Now, Moradabad is a very difficult district,—it has a unique

administration and a unique administrator. I had an interview with the Magistrate and some day the Press may know of the funny things I heard. I should like to recall here that both the Home Member and my friend, Sir Muhammad Yakub, the other day defended the bad system of nomination of the I.C.S. officers. No wonder, for I may say the three district officers who treated me fairly were all "competition-wallahs" and the other man who behaved in the funny way was a man who had been nominated in the I.C.S. for his services in the war!! There was something wrong with his head; and I say that you make him a Field-Marshal if you like, make him a Commander-in-Chief if you like but for God's sake do not put him over us in order that he may bully us and do illegal acts! (Laughter.)

Sir, in the Moradabad district there was a woman's seat, and Begum Mohamed Ali, who was respected and loved by everybody, although she did not agree at first to come to the local Assembly, was induced by friends to do so. They said, "this is the first time a Muslim lady is going to represent Muslims. Let only such be elected as she commanded respect and who was a God-fearing woman, and she had consented. Now unlike me she had Zamindari. I also had been a Zamindar but I happened to be a rebel and an outlaw and I thought the best thing would be to give my property to my mother and I transferred it to her. I had however rented two houses in Moradabad. The law said that either a candidate may reside there or he may have a place of residence ready for occupation and occasionally occupied it. I had two houses for which I paid rent. They "umpired" me out on the residence question. I was umpired out—and there was no appeal. I would like the Law Member to see about this though there was no time this year; that in these elections, if you want fair-play, you must not appoint the present type of returning officers; you must get them from the judicial branch of the service and not the executive branch because in the latter case they will always be at the beck and call of the Deputy Commissioners. (Hear, hear.) If any impartial friend will read judgment of that case he will clearly see the "black and white" line, he will see that it is partly written by an Englishman and partly written by the man in charge. Why, the English is so different! (Laughter.) So, Sir, I was umpired out from Muradabad; and though I had barely four weeks for work, I faced another Knight, Sir Shafaat Ahmad Khan, who had been working for six months, but, Sir, I beat him hollow. Now, Sir, Begum Mohamed Ali was a Zamindar and had zamindaries in ten villages; instead of Rs. 5 a year, she paid as land revenue more than Rs. 300 a year, and, as a Zamindar in eight villages, she had residences. Now the same gentleman who umpired me out went on telling people when asked about his views about the woman's seat in his District, "what do you think would happen? there are two other ladies also standing, both go out with their faces powdered, and without any veil, and putting on beautiful dresses! The *other* lady goes in black *burkha* and her face covered and says, 'my husband had served Islam, and died while serving it and though my health is not good, I want to come in and give for this position some dignity'. Who will vote for these women without veils?" When I heard this news, I realized at once what was going to happen. I saw things happening with my own eyes. I kept quiet as I had no time to waste in useless appeals. I have to get back to work and to go all over India according to the wishes of

[Maulana Shaukat Ali.]

my Honourable friend and leader, Mr. Jinnah, in order to see that a better type of Mussalmans get in and that these weakling and reactionaries may have no chance to misrepresent the Muslim masses. (Hear, hear.) I have got the permission of the United Provinces Parliamentary Board to make my headquarters at Moradabad, and I am going to see, Sir, that no further henky-panky is done there. (Hear, hear.) But I warn you, Sir, that in the next few months, you may hear that there was a case against Maulana Shaukat Ali for murder, or for dacoity, or for elopement (Laughter), you may hear that there is a case against me for bad livelihood, and what not ! (Laughter), and I know this much that every effort will be made to howl me down. I am however perfectly willing to face all this and you should see that the official orders were carried out. I want to see that only such officials who would not tolerate any bribery or corruption on the part of anybody should be the returning officers. I heard that the same officer in charge of Moradabad said to a visitor that, "if anyone tells you that I want to favour this man or that man, hand that man over to me, but I want to tell you all the same, 'look at the idiocy of this Government, they are issuing orders that we should be impartial but orders or no orders, I will play my usual game'." Sir, I want to give here a fair warning. Government's officers should desist from unfairly helping unpopular candidates and reactionaries. There is already a very great feeling against this new Reform Act. Why court further unpopularity and odium. We pressed our friends (pointing to the Congress Benches) to seek elections and we mean to further press them to accept offices and replace the present official bloc. Government ought to conciliate. I know my own feelings and Begum Mohamed Ali's feelings, and I can now tell the Honourable the Home Member how terrorists and bomb-throwers are made. Sir, they are made by such officials and their supporters. When we find that in spite of all our fair and honest dealings, we are continually hampered by your officials, then iron enters into our hearts. Sir, it often happens that the Tehsildar according to orders wants that a particular district candidate should be defeated. In Begum Mohamed Ali's case the two patwaris, the chaukidar and another member of the group of Government supporters, a member of the district board gave evidence, with the result that although Begum Mohamed Ali, who had eight houses in ten villages as a Zamindar, was not allowed to be a voter.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member's time is up.

Maulana Shaukat Ali : Sir Muhammad Yakub knows all this and yet moves his amendment, I know him too well and he knew that I was going to make a speech and that is why he has disappeared.

Mr. Deputy President (Mr. Akhil Chandra Datta) : He ought to have been here.

Maulana Shaukat Ali : Sir, in Moradabad, this gentleman wants that when he stands up for election, nobody should say a word, not even a dog should bark. In Moradabad, the gentleman could not go out, because the whole of the town was against him, and, now, after having made the speech of today, when he goes back to

3 P.M.

Moradabad, I would like him to address a public meeting of Mussalmans in Moradabad.

Captain Sardar Sher Muhammad Khan : Why did you not contest his seat ?

Maulana Shaukat Ali : I wanted to contest, but I was not allowed—I was umpired out. My name was removed although Moradabad was my father's home and my mother's and we had property there.

Sir Muhammad Yamin Khan : Is your home also in Lucknow ?

Maulana Shaukat Ali : Yes, I have a house there for which I have paid a rent of Rs. 20 a month as the Honourable Member knows. My home is also there. Sir, I have finished. I support the Resolution and strongly oppose the amendment which ought to be thrown out. In conclusion, I appeal to the Honourable the Law Member that whenever cases against district officials and their high handed actions are brought to his notice, I hope he will support the right cause and give us fair play.

Sir Aubrey Metcalfe : Sir, the Honourable Member from the North-West Frontier Province has given the House a dissertation upon the inequities of the North-West Frontier Province Government in regard to their prevention of the activities of the Parliamentary Board. I do not propose to reply particularly to that part of his speech which is rather for the Honourable the Home Member to do and I am sure that he will be able to give the House facts which will present a very different picture to what the Honourable Member, Dr. Khan Sahib, has put before us. Incidentally, I may say that that picture was not nearly so lurid as I had anticipated. For my own part, I will attempt, in the first place, to give the House some account of the activities of the party which he represents, particularly in relation to elections. I may say that the party when it was originally founded and ever since has shown an extreme intolerance of the views of any other party except itself. When it was originally founded, it sought to establish its power and influence by means of a drilled and uniformed army mainly composed of the menial classes of the villages. This army known to its founders as the ' Khudai Khitmatgars ' or servants of God but more generally as the ' Red Shirts ' was trained to demonstrate in drilled masses and to secure the will of the party's organizers by the threat or the compulsion of force. In the early stages of its career it attempted to establish what was almost an independent form of Government by arrogating to itself both criminal and civil powers. Those attempts were put down by Government after great expenditure of time, trouble and money. Their next opportunity came in 1932 when the first Frontier elections were held. I have here an article which appeared about 2½ years ago in a journal known as the Journal of the Royal Central Asian Society and this gives an account by a gentleman of his own experience when he tried to exercise his right as a voter at those elections. The article is not signed and even if I knew the name of the author I should not be at liberty to divulge it. But the internal evidence of the article which, as I said was written 2½ years ago, will, I hope, be sufficient to make it clear to the House that this is absolutely unbiassed, genuine and first-hand testimony. I will read to the House one or two of the more illuminating passages. This gentleman writes :

" Abdul Ghafar Khan was a very popular personage at the time (*I hope Mr. Khan Sahib will admit that*), and was considered a sort of hero by the vast majority of villagers. They were told (*that is, the villagers*) that whoever fixed his thumb impres-

[Sir Aubrey Metcalfe.]

sion to the ballot paper would be signing the death warrant of Abdul Ghafar Khan. The counterfoils of the ballot papers had to be signed by the voters, and those who could not write had to fix their thumb impressions to them. It was therefore given out that their signature meant the signing of Abdul Ghafar's death warrant, for which the Government needed a sort of referendum and had devised this method for obtaining the necessary authority. The electors were also told that their signature on the ballot papers would be followed by heavy taxation and other dire consequences."

That I quote as an instance of deception. Now, we go further and we come to instances of force.

"The Red Shirts had announced picketing of the polling stations, and one or two days before the election at each polling station they blocked all the roads and paths leading to them. The villagers from most of the villages joined them because of the religious colour which was given to this work, and the riffraff and all the hooligans naturally took the most prominent part in it.

Owing to the propaganda, a major portion of the electors decided not to take any part in the elections. Another portion refused to vote on account of timidity. They had no desire to come into conflict with the Red Shirts. There were therefore only about 10 to 15 per cent. of the electors who were willing and had decided to take part in the elections.

The writer happened to be one of those who had decided to take part in the election, and one day previous to the polling he was at a village about six miles distant from the polling station. News arrived in the afternoon that the road to the polling station was being picketed. The writer went in a motor-car, and at a distance of about two miles, at the junction of two roads, he found about five hundred persons sitting in the middle of the road, completely blocking it. No argument could persuade the pickets to allow the writer to pass, and he therefore had to return to his village. At midnight the writer attempted again, this time accompanied by a couple of lorry loads of other voters, in the hope that the pickets might have moved away for the night. He however found that their number had doubled and that they had blocked not only the road but all the paths in the vicinity. Some of the pickets were also armed with daggers and pistols, which they were displaying with threats. The writer and his companions had to return once more.

One companion of the writer slipped from the lorries in the darkness and entered the crops on the roadside. Some of the pickets discovered this after a short time and began to chase him. A regular hunt began in the darkness, and the quarry had to run for his life. He told the writer in the morning that he had to lie for hours in the crops with voices all around him shouting death to him at sight. He managed to reach the polling station at 6 A.M. badly bruised and his clothes torn by the thorns and hedges. He covered the distance of about four miles in six hours.

The writer started for the polling station once more in the morning. He found a police party proceeding in a lorry to the polling station, and decided to follow at close distance. When they reached the pickets they found a huge crowd on the road. The police lorry attempted to pass through the crowd, which gave way, but shortly after started a fusillade of brickbats and stones. The writer's car was badly hit and all the glass was broken....."

There is a good deal more of it, but what I have read out gives a somewhat extraordinary picture of the way in which democratic institutions were interpreted by the Red Shirts in 1932 and I think they are quite sufficient to give a good deal of anxiety to the Local Government of developments which may take place in connection with similar elections in 1936.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Are you yourself the writer ?

Sir Aubrey Metcalfe : It may be argued as I think my Honourable friend, Dr. Khan Sahib, would argue that that mentality has disappeared and the Red Shirts are now only anxious to take an orderly part in these

elections and to become a law abiding party anxious to work the Constitution and assist in the introduction of a democratic government. Let us look at the facts for a moment. We find that at nearly all the meetings hitherto held under the auspices of the Red Shirts Parliamentary Board, the main doctrines expounded have been class hatred and racial hatred. There has been no attempt so far as I have been able to discover at any meeting to put forward any kind of constructive ideas such as are necessary to educate the comparatively ignorant rural electorate. The latest reports indicate a tendency on the part of speakers to go even further and to urge upon their audiences that complete independence and Red Shirt dictatorship are the only possible solution for the troubles of the North-West Frontier Provinces. In fact in some cases seditious tendencies among the speeches have been so common that Provincial Governments have had to consider—of course extremely unwillingly—whether it will not be necessary to prosecute some of the speakers. There has been another disturbing development in that we have very clear evidence that certain emissaries of Red Shirts have attempted to embroil the Government and the Afridis across the border and also to tamper with the loyalty of Faqir of Spinkharra. Such developments cannot fail to arouse acute anxiety both, in the minds of the Government and in the minds of other parties in the Provinces and this anxiety has been voiced quite recently by a prominent Congressman of Peshawar who edits the principal Hindu paper, in fact, I think the only prominent Hindu paper in Pashawar which is known as the *Frontier Advocate*. I would venture to read to you two very brief extracts. These are only extracts from the editorials in the *Frontier Advocate*, the editor of which has always been a very prominent Congressman. Apropos Pandit Govind Ballabh Pant's adjournment motion which he understands was attempted to be moved in this House on the subject of repression in the North-West Frontier Province, he writes as follows :

“ On comparison,—

referring to the United Provinces and the North-West Frontier Province,—

“ we find that a very exaggerated account has been given to Pandit Pant. Otherwise he would rather have attended to the difficulties of his own people in the United Provinces than to the supposed grievances of the Red shirts. It so seems that like other ignorant Congressmen in the rest of India, Pandit Govind Ballabh Pant is labouring under the erroneous impression that the Red shirt movement is in reality a part of the Congress. If he had known of its communal and pan-Islamic nature and the dangers it presents to the unfortunate minorities in the Province he would certainly have given notice of an adjournment motion to condemn the Frontier Government's policy of oppression of the mean minorities.”

I need not perhaps read the other one. My time is getting short and I would just say a few words as to what I feel is the duty of the executive government in such a situation. Surely their duty is not confined merely to the provision of polling booths and arrangements for the counting of votes, but it must also extend in my view to ensuring that all lawfully constituted political parties are able to exercise their franchise without fear or favour, and that no one party shall be able to suppress by violence all other parties in its conduct of election campaign. All British democratic institutions are based on the axiom that within the limits of the law there must be a fair field and no favour for all and I submit, a definite stage can be reached at which there must be some interference on the part of the Government in order to protect other parties from complete suppression. Only recently the British Secretary of State in a speech which he made described British democracy as the “ epitome of man's endeavour

[Sir Aubrey Metcalfe.]

to find freedom, individuality and peace". The constitutional experiment in which these elections are a stage is based on British democratic ideals and I feel sure that every good democrat in this House will agree that for Government to abdicate its functions merely on account of elections would constitute a complete failure of its duty towards the State and a surrender to the forces of violence and repression. (Applause.)

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : Mr. Deputy President, it is truly encouraging to find that we are so quickly learning the principles of democracy. Sir, if one were to read the history of England whose democracy is being copied in India, one would find that 60 years ago there was all sort of corruption, all sort of bullying and intimidation at elections. It has taken England 50 or 60 years to have fairly honest elections. We are still on the threshold of our experience and I am sure there is bound to be corruption, there is bound to be intimidation, there is bound to be rotten eggs. (Laughter.) Why, Sir, rotten eggs are the signs of democracy, and if there was an election without rotten eggs, it would not be truly a democratic election. Sir, the privilege of throwing rotten eggs is a privilege which goes with the vote. It is not a privilege confined merely to one party or one section ; it is a privilege that has to be exercised by all. Here is my bold friend, the Maulana, sitting behind me, there is that traitor of a Knight sitting on that side. Well, Sir, all I can say is that they do not seem to be using very friendly language. That is true democracy, Mr. Deputy President. My only point is let us think of true democracy, and when rotten eggs are thrown at us, let us not grumble. Let us not complain. (Hear, hear.) Therefore I was considerably surprised to hear the speech of my Honourable friend, Dr. Khan Sahib. Why did he complain about interference with his meetings ? I can hardly believe, knowing my Honourable friend as I do, that he would tolerate any interference. If anybody came with a complaint that my Honourable friend had interfered with political meetings, I would be more inclined to believe it than to believe that any meeting over which he presided could be interfered with. Why, my Honourable friend knows what it is to use his fists over and above merely angry words. In the part of the world he comes from. I should not be a bit surprised that as in England now, it will not merely be rotten eggs, but stones, and from stones, it may come to fists. Why should he complain of interference ? I can understand the meek people of Bombay complaining of interference in their meetings. I can understand the meek and humble Madrassah complaining of interference at his meetings but I fail to understand how any Afghan or Pathan can complain about interference at his political meetings.

Now, Sir, although I had not the pleasure of hearing the Law Member's speech I believe he admitted that the principle underlying this Resolution is a very sound one and that is that Government officials should not use their influence at elections. But I am not so clear about the wording of this Resolution. It says that Government servants should not "directly or indirectly interfere at elections". Now, Sir, talking more seriously, I am one of those who believe that it is the duty of Government to see that elections are fought fairly and with honesty ; and if there is any hanky-panky and Government are aware of it and allow that hanky-panky to continue, I consider that they are responsible. I would hold them responsible for peace and good order during elections just as much

as at any other time. I would hold them responsible for having an honest election. I have seen dishonest elections in India and I have not complained because I take it as a sign of the times. I take it that in a few years we shall improve, but that is no reason to say or to demand that Government shall not interfere when the peace and order of the country is broken due to tension at elections. Sir, I have been a victim of picketing and I have seen other candidates being victims of picketing. I have seen with my own eyes ladies going in to vote being stopped by my brave friends, my opponents, who I trust will not be opponents in the future. But when they were opponents I have seen them stop women going in to exercise their franchise lest they might vote for a candidate other than the one they desired to succeed. Is that to be allowed with impunity? I think it is the duty of Government to see that there is no picketing and I consider it the duty of Government to give every candidate, whether he be Congress or Liberal or my friend, Maulana Shaukat Ali, or the brave Knight opposite, protection against picketing, against bullying of his friends and supporters (*Mr. K. Ahmed* : "And corruption") and against corruption. That is more easily said than done. But although Government may not be able to wipe out corruption at elections, it is the duty of Government to see that at least at election time,—not at meetings, perhaps they may not be able to control meetings,—but at election time that fairplay is ensured. And although I raise no complaints on the floor of this House, let me tell the Honourable the Home Member that I have had very serious reasons for complaint at election time at not being able to take my supporters to the polls on account of picketing.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : Was not the same thing done in your favour ?

Sir Cowasji Jehangir : No, I absolutely deny it, and I contend that picketing was done by my opponents. I did not complain ; I have not complained till this day. But when my Honourable friend the Doctor gets up and complains about his meetings being broken up by retired Government servants and honorary magistrates who are not officials, I have a right to complain also. And therefore let us have fairplay on all sides. Let us have fairplay and demand fairplay. We cannot all control our followers,—we know that. I know that my Honourable friend, the Leader of the Opposition, and many of his friends do not desire that their followers should break up Liberal meetings. They have no such desire but they cannot control their followers. It is no use telling them that their followers have done this and that. We know they have no control ; it happens all over the world, it happens even in England. That is true democracy and you have no right to complain. But I have a right to complain if the Government of the country which is responsible for fairplay at elections does not do its duty. I am not complaining against my Honourable friends here ; it is their business to break up my meetings if they can. But it is the business of Government to see that there is fairplay. And if this Resolution means in any way by the words "directly or indirectly" that Government shall not interfere when there is bullying and intimidation, I will not be a party to this Resolution. I make it perfectly clear that if I cast my vote for this Resolution it does not exonerate Government in any way from seeing that every candidate, whether Congress or Liberal or orthodox Hindu or a reformer, shall get protection and shall be allowed to bring in his supporters without fear and without intimidation to vote at the polls. Sir, I again maintain that the

[Sir Cowasji Jehangir.]

principle underlying this Resolution is a truism. Of course all over the world officials are not supposed to use their influence but at the same time do not let this be construed to mean that Government should sit with folded arms while Liberals or Congressmen or any party encourage intimidation at election time. That should be put down with a heavy hand, and I expect that Government will have the machinery ready all over India to see that these elections are run as fairly and as equitably as it is humanly possible to do.

Dr. G. V. Deshmukh : Sir, I hope it will not be taken as anything personal against my colleague, Sir Cowasji Jehangir, who comes from Bombay ; but I take it that just as you have to expect rotten eggs in democracy, my Honourable friend, Sir Cowasji Jehangir, will not mind my telling him that a bath after rotten eggs is also included in democracy at any rate. What is the point about the whole discussion today ? It is not as if Sir Cowasji and myself are standing and he cannot educate the public in his own way or that I cannot educate the public in my own way. The point is that Government must remain neutral. It is not....

Sir Cowasji Jehangir : Should Government remain neutral when one party or the other intimidates its opponents from going to the poll ?

Dr. G. V. Deshmukh : I take that stand and say, what Sir Cowasji Jehangir cannot deny, that on the last occasion his supporters and colleagues took as much part in intimidation and preventing voters from going to the poll as the Congress supporters did.

Sir Cowasji Jehangir : I absolutely deny that and it is an open fact in Bombay.

Dr. G. V. Deshmukh : I have given to Sir Cowasji Jehangir every time because I am standing on such sure grounds that in spite of Sir Cowasji's denial he will not be able to prove his point. What is more, even Sir Cowasji's supporters did that. We who stood for the Congress never complained, but at 2 o'clock when the tide of the battle seemed to be turning, I say that candidates who were standing against the Congress went to the officers and complained. And Sir Cowasji will not deny that I myself told him that all the morning things were done in his favour and at that time I had not complained and how was it that he was complaining then ? Sir Cowasji Jehangir cannot deny that at all. And if Sir Cowasji Jehangir wants further evidence, I will call the Election Officer who presided at the election. He at any rate will bear me out that when Sir Cowasji Jehangir himself complained and when he approached me, I said it does not matter and this is bound to happen ; before morning Sir Cowasji Jehangir started by these methods and if these methods are being practised now in the afternoon there is nothing to complain.

Sir Cowasji Jehangir : All the morning I was supported by *bona fide* supporters.

Dr. G. V. Deshmukh : We were also supported by *bona fide* supporters.

Now, what is the point of the discussion ? My friend, Dr. Khan Sahib, nor myself will ever complain of the methods which would be followed by our opponents, because we can meet them, but when the Government

takes part, when they try to support a particular candidate, then, Sir, it must be admitted that the dice is already loaded against us. That is not playing the game, and therefore the whole point of the Resolution today is that we do not mind whatever methods are followed by one party or the other in support of their candidates. By all means let them adopt whatever methods they like. We are not frightened of intimidation, we are not frightened of whatever methods that may be followed, and when I refer to this, I mean the methods which are commonly followed in elections in England and elsewhere, because such methods are followed wherever democracy exists, but the point is this. Supposing two candidates fight against each other ; one candidate can take the same measures as the other candidate, but not if the Government supports one of them or shows any particular interest in him. That is the point of the Resolution. In this country particularly, Sir, it is very important that the Government should remain neutral, because, after all, whatever sham Government we have, it is generally supposed that the candidates who would get into the Legislatures after they are elected would take part in the Government, and it will therefore be most unfair on the part of Government to use any kind of influence or to show favoritism, or to use all the resources, all the giant's strength that Government is capable of for vitiating the elections. That is my point, and I take it that the House will agree with me that, so far as the Government itself is concerned, with all the machinery, with all the influence, with all the patronage and with everything at their command, they should try to keep the purity of the elections and should see that the candidates fight out their elections on their own merits. We are always ready for it.

Some Honourable Members : The question may now be put.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, it was very interesting to hear my friend Maulana Shaukat Ali.....

An Honourable Member : He is always very interesting.

Sir Muhammad Yamin Khan : He is really responsible for my getting up to speak on this occasion. My friend has spoken in his usual way, praising himself, maligning others who do not see eye to eye with him. That is his usual habit. If Honourable Members will look through his speeches, they will see that there is nothing else in those speeches except self-praise, mention of his own name, of his brother's name and of some others. He does not spare anybody with whom he does not agree. After all, he did not throw any light in his speech except mentioning something about his own election campaign, and what a strong candidate he would have been if he had fought against my friend, Sir Muhammad Yakub, about whom he talked because he was not in his seat.....

Maulana Shaukat Ali : I would have talked more if he had been in his seat.

Sir Muhammad Yakub (Shaking his fist at Maulana Shaukat Ali) : I would have floored you there and then.

Several Honourable Members : Order, order.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I must say these things won't be allowed in this House.

Maulana Shaukat Ali : Sir, on a point of order. A thing like this would have been unpardonable in a man like me, but for a man who has been the President of the Assembly once and who again tried for the Presidentship of the Assembly last year, this was most unpardonable, and I hope he will withdraw it.

Sir Muhammad Yamin Khan : Sir, whatever may happen, there were some very interesting things in the speech of my friend, Maulana Shaukat Ali. The first thing was he opposed the amendment. That was entirely wrong, because while he supported the Resolution, he opposed the amendment, and that shows clearly what his attitude generally is. Sir, you have rightly said that that kind of thing cannot go on in this House. When in this House my friend shows this kind of attitude, you can imagine what would be his attitude outside at the polling booth ? You can also imagine what his followers would do. That is the reason why my friend does not want to support the amendment which says " unruly conduct, demonstrations which are likely to cause the breach of the peace ". Because my friend likes to indulge in such acts, because he likes to induce his followers and friends also to indulge in such tactics, which my friend Sir Muhammad Yakub wants to do away with, the Government should take proper care to see that during elections there should be nothing done which would cause a breach of the peace. But that is not to the taste of my friend, Maulana Shaukat Ali.

Then, Sir, another thing which he said in his speech was this. He said that if my friend, Sir Muhammad Yakub, had made the speech he did in this House this morning, outside the House, something serious would have happened to him. In so saying my friend, Maulana Shaukat Ali, has let the cat out of the bag. Does it not mean that if anybody speaks in a manner which is not to the liking of my friend, Maulana Saheb, if anybody speaks or expresses ideas which are not in accordance with the ideas of Maulana Saheb or of his followers, he would not care to listen to such people and he would do something serious....

Maulana Shaukat Ali (in a loud voice) : I said nothing of the sort.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order. I hope this line of argument will not be pursued any further. Enough of it. Let us now come to the merits of the question.

Sir Muhammad Yamin Khan : Sir, I am trying to show the reason why the amendment has been put in. It has been put in because we are anxious that free liberty should be given to all parties for election purposes, all candidates must have equal freedom ; there should not be freedom for only one section of the people ; there should be freedom for everybody. If aggression is not pardonable on the part of the Government servants, certainly, Sir, aggression can never be tolerated on the part of those who say they are not aggressive, but they are non-violent....

Maulana Shaukat Ali : I am not non-violent. (Laughter.)

Sir Muhammad Yamin Khan : Now another thing is this. The words used in the Resolution are public servants. And what is meant by a public servant? Everybody today has attacked only the Government servants, but the people employed by the Government are not the only people who come under the category of public servants, they are not the only people who are public servants as defined by the law. There are public servants people who are employed in municipalities and District Boards, Municipal Commissioners, Honorary Magistrates, and others. May I ask my friend, Maulana Shaukat Ali, when he came to my house for his election, who had accompanied him? Was he not accompanied by the son of an Honorary Magistrate who was using all his influence in favour of my friend, Maulana Saheb? Was he not asking the Municipal Commissioners to use all their best influence in favour of my friend, Maulana Shaukat Ali, and get all the votes through the Municipal Commissioners?

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

Well, my friend feels shy when I mention his own affair. He cannot deny that; he will not deny the fact that he himself was using the public servants in his favour to do election work for him. Were there no other persons to help him? Why should he have sought the help and assistance of these public servants? If public servants are not allowed to take part in election campaigns, things would be quite allright. Sir, in my province a lot of complaints have been made that school teachers employed under District Boards have been using all their influence in favour of certain candidates; it was not the Patwaris so much as the school teachers employed under the District Boards who take part in these elections, and all their influence was used in favour of the congress candidates. I would ask my friends not to sling mud at others. If they want nothing to be done to themselves, then they should be fair to others, and all elections must be free from undue interference by either one party or the other. I would suggest one thing, that no candidate should have any help from any source whatever, they should not get any help from public servants, and all public servants who are in a position to cast their votes or to use their influence on the voters should be prohibited from using any kind of influence. There may be voters who owe a debt, and they may be under the influence of a candidate who may be standing, but they are also as much entitled to see, in the interest of the country, that they return a properly qualified candidate, and they should not be debarred from voting. He should not be debarred if anybody goes to him and asks him "Whom are you giving your vote to?" and he says "In my opinion this is the best candidate". He is merely giving his opinion and that is no interference. But the real interference is this: when a public servant goes about and canvasses for a candidate and goes along with him from door to door asking for votes—that is really interference in the election. If a man merely says indiscreetly that he likes so and so, that is not interference, because he has not gone to anybody. I would therefore remind my friend, Maulana Shaukat Ali, that he would not be justified in not accepting the amendment, just to stop him from activities which he

[Sir Muhammad Yamin Khan.]

may like to indulge in and which might bring him into trouble—the activities which are mentioned in the amendment. If he gets into trouble and finds himself locked in jail, he should not blame others at all. Otherwise he has nothing to fear. I would advise him and his people that they should control their tongues and behave well and show to the world the benefit they are going to do if they are elected and show their own worth, instead of maligning and abusing the other side. If Maulana Shaukat Ali goes and says that he has been talking in this House about five rupees for his rickshaw and about other great services he has rendered to the country, I would not mind it. Let the public decide about it—it is their look-out. Everything must be fair. It is not as if everything is fair in love and war. It is not so. With these words I support the amendment as well as the Resolution and I think both should be accepted by the House.

Some Honourable Members : The question may now be put.

Mr. M. A. Jinnah : Sir, it is very unfortunate indeed that the discussion has drifted into totally irrelevant channels. I congratulate the Honourable the Law Member who spoke on behalf of the Government and laid down in his speech a very sound—and indeed the only possible principle : and I was glad that he indicated that the Government were prepared to accept the Resolution. Now, what is the Resolution ? I agree with the Leader of the House that Government cannot possibly guarantee the behaviour or the conduct of public servants. They can only deal with the Government servants. There I quite agree. With that modification let us understand what is really the object of this Resolution. I quite agree that in a large organisation with the changing times to which many of our bureaucratic friends, specially in the various districts, are not accustomed to yet, they are liable to go astray, and there is no doubt that they have gone astray. On the other hand, I quite understand that allegations may be exaggerated—may be in some cases unfounded. We are not discussing that now. But I think the Government will recognise—and I think the Honourable the Leader of the House who spoke on behalf of Government will recognise—that we have had sufficient evidence to justify the tabling of this Resolution on the floor of this House. I am glad that the Government have taken up an attitude of vigilance and I hope that the Government of India will maintain that vigilance and see that no Government servant is allowed to interfere with the elections directly or indirectly. When you use the phrase ‘directly or indirectly’ what does it mean ? It does not mean that if any offence is committed, if any law is broken that those Government servants will fail to perform their duty. It does not mean that. What is the use really of having an absurd amendment of this character ? It goes without saying. All the laws are not abolished : all the officers of the Government will not cease to function. It is an absurd thing to suggest a thing like that.....

Sir Muhammad Yakub : If the amendment is absurd, it is as absurd as the Resolution itself : both stand on the same footing. When there are laws, what is the use of asking the Government to do this ?

Mr. M. A. Jinnah : I am really astonished at the capacity of my Honourable friend who interrupted me. Cannot he follow a simple thing like this ? That there is no other remedy open to us. If a Government servant influences an election, it is not illegal ; it is not criminal. He is entitled to do it except that he breaks a rule of the service ; and that rule has been laid down in Great Britain and in this country for the conduct of Government servants. When we find that there are symptoms, that there is some evidence that this rule is being broken, I cannot prosecute a Government servant if he influences my voter. There is no law against it. I can only appeal to the Government and I can only say to the Government, " Please see that these very rules which are fundamental for the conduct of your servants are observed ". Therefore, the Resolution is not at all absurd. It demands that these rules are observed and enforced by Government. But the amendment assumes that if the Resolution is passed, then all the laws, criminal and civil, and laws relating to election and all other matters will come to a standstill and will not operate. The absurdity is that. Therefore I do not think I need dilate any more on this question. I think the House ought not misunderstand me—please don't think for a single moment that I am approving of hooliganism. Don't think that I am approving of, or that I am holding a brief for, the conduct of some members of the Congress. And Congress is a big organisation. Congress is a party of thousands and thousands of people all over the country. Those who belong to the Congress are not servants of the Congress. They are not paid by the Congress and it is not easy for them to control individuals.

Sir Abdul Halim Ghuznavi (Dacca *cum* Mymensingh : Muham-madan Rural) : Paid by whom ?

Mr. M. A. Jinnah : Not by you. You would generally like to be paid for what you do ! (Laughter.) I am not defending it, and I think, as the Honourable the Leader of the House pointed out, such conduct has already been condemned by the leaders of the organisation, and I have no doubt that Honourable Members sitting here will endorse when I say that we do not desire hooliganism. (" Hear, hear " from the Congress Benches.) We want to go before our people with our policies and programmes, and we want to ask the electors to elect fairly and squarely any one they like. But, Sir, during the course of elections and party controversies, even in the most regulated countries, a certain amount of excitement, a certain amount of disorder is but normal and natural. What happened in England only the other day ? Sir Oswald Mosley, the leader of the Fascist Party which he is starting in England—what happened to him ?

Mr. F. E. James (Madras : European) : Stoned.

Mr. M. A. Jinnah : But there is the law which can deal with it.

Mr. F. E. James : It was not an electioneering speech.

Mr. M. A. Jinnah : Therefore, I say, why mix up these two questions, namely, a party controversy, parties fighting for election,—why mix up that question with the question whether the Government should not be vigilant and see that the Government servants do not influence or take part directly or indirectly in the election ? Why mix that up ?

[Mr. M. A. Jinnah.]

Sir, I have done. I am glad and I say I congratulate Government indeed for taking up the right stand that they have done in enforcing their own rules. (Applause.)

Some Honourable Members : Let the question be now put.

The Honourable Sir Henry Craik : I understand I am entitled to speak on this Resolution for half an hour. If the House has to take up the adjournment motion at 4 o'clock—however, I have not got very much to say. It seems to me that there are two quite distinct and separate aspects of this question before the House today. First is that raised in the Resolution itself, which deals with the conduct of individual Government servants. It recommends that they should not interfere directly or indirectly with elections. Well, Sir, as regards that, I have only to say that that is and always has been one of the main rules regulating the conduct of Government servants. The rule is as follows :

“No Government servant shall canvass or otherwise interfere or use his influence in connection with, or take part in any election to a legislative body whether in India or elsewhere.... provided that a Government servant who is qualified to vote may vote.....”

That is the principle of the rule and that is the principle which Government intends to and has in the past enforced. In view of the approaching elections Government have recently very pointedly called the attention of all Local Governments to this rule, and most, in fact, I think I can say all Local Governments, have called the attention of their own servants to the rule. That is the first point raised by the Resolution itself. The point raised by the amendment deals with an entirely different question. It urges on this House that all electioneering activities which threaten to cause a breach of the peace should be put down—I think the wording of the amendment is, “with strong measures”.

As regards the first point, that is the conduct of individual Government servants, my Honourable friend, the Law Member, has made it perfectly clear that Government accept that principle, and as I have said they have recently reminded the Local Governments who in turn have reminded their own officers of the necessity of observing that principle closely. I do not really see what more Government could have done. Certain allegations have been made in the press, but none I think on the floor of the House today, that this rule has been broken by individual Government officers. If that is so, I do not admit that it has occurred to any serious extent. I can only say that Government cannot be held responsible if in certain circumstances one or two of the many thousands of Government officers have behaved indiscreetly or shown a partiality for one side or another.

An Honourable Member : But what about Executive Councillors ?

The Honourable Sir Henry Craik : But no such allegations have been made in the course of this debate.

Mr. M. A. Jinnah : I must say that I refrained from going into it after the statement made by the Honourable the Law Member, otherwise you would have heard a great deal.

The Honourable Sir Henry Craik : No allegations have been made in the course of this debate and I therefore have no case to meet. If allegations are made I will do my best to meet them.

Sardar Sant Singh (West Punjab : Sikh) : May I present the Honourable Member with this open letter addressed to the Members of the House ?

The Honourable Sir Henry Craik : Had any allegations been brought to my notice I would have certainly attempted to meet them. I have certainly seen certain allegations in the press and I have made enquiries, and I find in the vast majority of cases they have been investigated and were found to be completely without foundation.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : The United Provinces Court of Wards Circular !

The Honourable Sir Henry Craik : That has not been made in the course of this debate. If it had been, I would have met it. I will deal with that point at the next meeting of the House. (Interruptions.)

Mr. President (The Honourable Sir Abdur Rahim) : Order, order.

The Honourable Sir Henry Craik : I will turn now to the second point, namely, the point that is embodied in Sir Muhammad Yakub's amendment. I would like to state quite clearly, especially with reference to what fell from the lips of my Honourable friend, Sir Cowasji Jehangir, what the policy of Government is in regard to these matters. Government cannot tolerate illegal or seditious activities merely because they are carried on under cover of an electioneering campaign. While it is the duty of all executive officers and indeed of all officers of Government to maintain an attitude of complete detachment towards the various parties which are seeking the suffrage of the electorates, it is at the same time equally the duty of Government to protect the structure of law and order and the machinery of the administration from subversive and unconstitutional attacks. This is especially necessary during the period of change-over from one form of constitution to another. Neither Government nor its officers can stand by and allow an electioneering campaign to degenerate into dissemination of sedition, intimidation of rival candidates or their supporters, or the fostering of a revolutionary mentality in preparation for a fresh campaign of direct action.

That, Sir, is, in brief, the statement of the policy of Government towards the matters dealt with in the amendment. And it seems to me that the amendment, though in somewhat loose language, sufficiently embodies that statement of policy. Such action as Government has been compelled to take in one or two provinces in pursuance of that policy.....

(It being Four of the Clock.)

Mr. President (The Honourable Sir Abdur Rahim) : Pandit Lakshmi Kanta Maitra.

MOTION FOR ADJOURNMENT.

CONTROL OF THE SOLDIERS ON THE FOOTBALL GROUND AT ANNANDALE,
SIMLA.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muham-
madan Rural) : Mr. President, I move that the

4 P.M.

House do now adjourn. The facts which give rise to this motion for adjournment may not be known to everybody in this House. The facts are briefly these. As Honourable Members are aware games are going on in Annandale in connection with the Durand Football Tournament. In these contests, several Indian teams from Calcutta have come to join. What happened yesterday was that the Aryan Team of Calcutta, an Indian team, met the Green Howards, a military team, in the third round of the Durand Tournament. A military team was pitted against an Indian team and naturally there was a vast concourse of spectators, including several hundred Indian ladies and little children. The game was a very thrilling one and when the Aryan team won the game by one goal and the game was coming to a close, feelings began to run high. I am not going into the merits of it, but the feeling got round that the refereeing was not impartial and the bystanders and onlookers who had come to witness the game became very much agitated. The play commenced at about 5 P.M. and it was to terminate at 6. When it was four minutes past six, the players of the Aryan team became very restive and the onlookers also became very restive. They felt that after all justice was not being done to the Indian team. Anyhow the play went on and several penalty shots were given against the Indian team which in the opinion of the spectators was not just and fair. Two of these penalty shots were averted by the goal keeper of the Indian team and the Honourable Members of the House can well imagine the feeling of the Indian team as well as the spectators when in close succession two shots were stopped by the Indian Goal Keeper and immediately after this, another penalty shot was ordered by the referee, and the trouble started. The Indian team felt that a good deal of injustice was being done to it and it had behind it the entire sympathy and support of the bystanders, who also thought that from the beginning refereeing was not properly done. (Interruption by Mr. James.) I cannot follow what the Honourable Member says.

Mr. N. M. Joshi (Nominated Non-Official) : Is it Association Football or Rugby that is going on there ?

Pandit Lakshmi Kanta Maitra : Whatever it may be confusion started. The military team was given the penalty shot which they utilised because the Aryan team lost heart at the mandate of the referee. They never deserted the field. They did not take much interest in it and the game ended in a draw. There was tremendous feeling in the field that the Indian team was not getting justice at the hands of the referee. A good deal of shouting of 'Shame' went on and immediately after that the Punjab Regiment was ordered to keep order in the field. Everything went on well for a time and a portion of the crowd melted away. All this time the British soldiers who had been posted there were biding their time. When the crowd had melted to a considerable extent, the soldiers began chasing the rest of the crowd and assaulting them right and left. As I said earlier, there were several hundred ladies and young children and girls and the House can well understand their position. The soldiers began striking people with whatever they could lay their hands on—broken

chairs, legs of chairs, bamboo sticks, batons and metal-mounted sticks. Fortunately the spectators formed a cordon round the ladies. You can well understand their fright because the very people who were there to preserve order broke the law and began assaulting people, all and sundry. I can dimly visualise what happened from the reports I have received. It was turning into another Jallianwala Bagh. You can imagine a place like Annandale, 1,500 feet below the level of the place where we are sitting. The exits are so few. The ladies have got to climb up hill. The children were running about pell mell. There was confusion and chaos and these military people were indiscriminately assaulting people with all sorts of weapons. A grave disaster was in view and to the eternal shame of the Indian spectators, it must be said that they allowed themselves to be chased, because they were unarmed. Later on it was noticed that two young boys were found unconscious on the field. (*An Honourable Member* : "Not thousands?") There may be thousands, I do not know. I am not now talking of the numerous people who got wounds and injuries from batons, whips and the metal-mounted sticks and broken legs of chairs. I shall not be surprised if thousands got injuries, if the number mounted up to thousand, because the concourse was so big and the hooligans were after their work with such demoniac frenzy. Then, Sir, these two young boys were attacked. I understand the name of one of the boys is Halim, a Muslim young boy aged about fourteen : he is a student of the Sir Harcourt Butler High School—not of course Sir Abdul Halim Ghurnavi (Laughter), and the other boy, I do not know his name (*An Honourable Member* : "Abdul Hamid"), is aged about twelve years. Now these two boys were found lying unconscious on the field. Now the fun of the situation is—and I ask Honourable Members of the House to carefully consider the position—that there was this assault going on ; everybody left ; these two boys were lying on the field for two hours and a half ! Later on these boys were found lying unconscious on the field ! There was nobody—none from my Honourable friend, Mr. Tottenham's Department to come and administer even first aid ! Then, Sir, Professor J. K. Seal, the trainer of the Aryan team, found these two young boys lying unconscious ; he then secured improvised stretchers, rendered them first-aid and then with the help of his own team and others brought from elsewhere, removed these two boys to their homes. I do not know their immediate condition, but I have got information that up to half past nine their condition was very precarious....

The Honourable Sir Henry Craik (Home Member) : Half past nine last night, or this morning ? I thought the boy died this morning ! (Laughter.)

Pandit Lakshmi Kanta Maitra : I do not understand what the Honourable Member means by constantly reminding me of that and saying he thought the boy died this morning. Sir, he ought to realize....

The Honourable Sir Henry Craik : I asked "half past nine A.M.," or "half past nine P.M." ? (*Voices* : "Shut up, shut up.")

Pandit Lakshmi Kanta Maitra : Sir, I never thought that the Honourable the Home Member wanted to import so much heat into this affair.

The Honourable Sir Henry Craik : I was asking if it was at half past nine this morning or last night.

Pandit Lakshmi Kanta Maitra : I said last night.

Mr. President (The Honourable Sir Abdur Rahim) : I do not think there ought to be any more heat displayed.

Pandit Lakshmi Kanta Maitra : Sir, I submit the other side is trying continually to provoke me although I am trying to approach the matter in a calm and dispassionate way. Sir, what happened ? Sir, I myself have seen some of these incidents. I myself was passing along the Mall at half past nine last night, and Honourable Members will believe me when I say that after this brutal incident, I found the military people taking out a sort of procession, sounding their trumpets and drums and going like that all the way right from the Mall road, down the Assembly quarters, and further on. I was actually passing that way. They were celebrating their glorious act of heroism ! Sir, that is a fact, I saw that incident with my own eyes. Most of them were drunken, some of them were brandishing their sticks and some were shouting slogans, and all that was enough to frighten all men on the road. (Laughter.) Now the question is being frequently raised by the Honourable the Leader of the House and also by the Honourable the Home Member whether the man is dead or not ! Sir, you have seen the terms of my motion for adjournment. You can well understand what meagre facilities we have so far as we are concerned for knowing definitely whether the boy is surviving or is dead. All I said was that the injury was a very serious one,—and, Sir, it was not an isolated act. In the camp of the Aryan team another young man aged about thirty-two was found with a wound about an inch deep on the head. I understand, that Honourable the Law Member said a few minutes ago that he simply broke his collar bone. Sir, it is not such a simple case as he imagines it to be, there was also a gaping wound on his head and blood was coming out in profusion. Sir, I want this to be borne in mind. After all, we have had enough of this sort of devilry on the part of these blood-hounds. I put it to Honourable Members....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has only one minute more.

Pandit Lakshmi Kanta Maitra : Sir, if, in the very headquarters of the Government of India, under the very nose of the Adjutant-General, who is, I believe, next in rank to the Commander-in-Chief and who was present there on the field, if within a stone's throw of His Excellency the Viceroy's residence and within a stone's throw of this very Legislative Assembly Chamber and also of the great Imperial Secretariat, and also within a very short distance of Army Headquarters, these things can take place, then, I put it to all Honourable Members, where do we stand ? What, then, is the position of poor and ignorant villagers, the ordinary people who live far away from the headquarters of the Government ? Sir, is not this a very very serious matter ? It is, so far as I am concerned, absolutely immaterial whether the victim is a Hindu, a Muslim, a Christian, a Sikh, or even a European. The unarmed civil population does demand some amount of protection,—and what is worthy of note in this connection is that the police were conspicuous by their absence there ! No police could be found there, and I submit that that is a very serious matter. Sir, this is a matter which should be stopped by all means and I ask every Honourable Member to support this motion so as to put a stop to such hooliganism of the soldiery for all time. (Loud Applause.)

The Honourable Sir Henry Craik : Sir, after the wholly fantastic and complete distortion of the facts which the House has just listened to, I propose to present to you with a cold and brief statement of the facts, as ascertained by me partly from people who were present throughout, partly from the police, whose duty it is to inquire, and partly from my own personal observations. The facts of the incident, as far as they can be ascertained at present, are as follows. A match was played yesterday afternoon between an Indian team and a British team. The match was played in a perfectly friendly spirit, but just before the close a decision by the referee made the result a draw of one goal all, instead of a victory by the Indian team. As a result of this, the Indian team refused to continue the match. The captain and manager of the Indian team attended a meeting of the Durand Football Tournament Committee this morning, at which the decisions of the referee were upheld as being strictly in accordance with the laws of football, and the Indian team's withdrawal from the match was reluctantly accepted by the Committee. At the end of the match, a section of the Indian crowd rushed on to the ground but were at first persuaded to withdraw without difficulty, with the help of some Indian sepoys on duty and by members of the public. As soon as the Indian team walked off the ground, the rush was, however, renewed in much larger numbers and a demonstration took place in front of the Committee, and this lasted for some time. I saw this myself. This went on, as I have said, for some time, and after dark the crowd proceeded to do considerable damage to the chairs, *kanats* and other property of the Committee. There were several attempts to set fire to these articles—chairs and *kanats*. In the confusion, as far as can be ascertained, three persons were injured, two very slightly, and one of them a boy who received a cut on the head and who remained for a very short time unconscious. That is the boy Abdul Halim to whom reference was made....

An Honourable Member : How did they come by these injuries ?

The Honourable Sir Henry Craik : The boy received medical aid on the ground—so far from being left unconscious on the ground for two and a half hours as alleged—by a British orderly and a British military assistant surgeon.

Pandit Lakshmi Kanta Maitra : The Honourable Member is misinformed.

The Honourable Sir Henry Craik : The "Honourable Member" is not misinformed.

Pandit Lakshmi Kanta Maitra : I met the captain of the team.

The Honourable Sir Henry Craik : What does he know ? It is certainly untrue, as was alleged this morning and as was repeated, in spite of my challenge, by other Members including my friend, Mr. Satyamurti, that any person has died as a result of the incident, nor is there any proof that the injuries were caused by soldiers, British or Indian....

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : May I interrupt for a moment ? I was told so by a friend whose veracity I had no reason to doubt, but I apologize to the House for having said so, without further ascertaining the facts, on that mere testimony, and I am sorry for that.

The Honourable Sir Henry Craik : I quite accept that, and can only regret the Honourable Member did not look into his friend's information. The boy, as I said, received medical attention on the ground by a British orderly and was then taken up to Simla and examined by a private doctor. There is no fracture of the bone. The skin was cut but the boy was never in the slightest danger. He is now as well as possible and he wanted to go to the school this morning, but his father did not allow him. I rang up the police half an hour ago and it was said he is perfectly all right.

Pandit Lakshmi Kanta Maitra : Is his father a Government servant ?

The Honourable Sir Henry Craik : What is the significance of that question ?

Pandit Lakshmi Kanta Maitra : I want to know it as a piece of information.

The Honourable Sir Henry Craik : Well, Sir, as I have said, one boy was very slightly injured ; he got a cut on the head and was unconscious for a few minutes. There were no other injuries at all except to two persons who received trifling injuries. The story of the person who had a wound 4 inches deep on his head in the Aryan Team Camp is so far as I know a complete invention. The facts are under investigation by the police at present. Having explained what actually occurred and having shown what a complete exaggeration of the facts has been presented by the Honourable Member opposite, I submit that it would be most unfair for this House to make any reflection on the conduct of any person. There is no proof whatever that any of the injuries were caused by soldiers, either British or Indian. The only soldiers on duty on the ground were Indian soldiers from Jutogh. I need only add that the soldiers who were present on the ground as spectators were there as ordinary citizens like any other spectators and, as such, they are subject to the ordinary law of the land.

Now, Sir, I have only one further observation to make and that is that I have made it clear to any impartial listener that the importance of the incident has been grossly exaggerated and that by no stretch of imagination can it be described as a matter of urgent public importance. What has happened.....

Mr. President (The Honourable Sir Abdur Rahim) : I ruled that the motion was in order on the statement made by a number of Members on the non-official side that one of the men who were assaulted had died. If I had known that, as a matter of fact, no one had died and no really serious injury had been inflicted, I would certainly have ruled the motion out of order.

The Honourable Sir Henry Craik : That is exactly my point. The Chair was deceived and the House was deceived as to the facts, and I submit, with great respect, that an apology is due to the Chair and to the House from the Mover of this motion and from his friends who gravely exaggerated the importance of what occurred and who asserted, when challenged by me across the floor of this House, if they were certain that someone was dead : " Yes, we are certain." It was on that misrepresentation that the Chair ruled the motion in order. I submit that if the facts

had been known as I have put them now, it could not possibly have been held that the matter was one of public importance, still less should it have been made the occasion for making disgraceful and entirely exaggerated charges against British soldiers.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order : I must make it clear that the leave for a motion of adjournment is not to be asked for unless the matter is one of real public importance, otherwise the business of the House will be dislocated and a great deal of public time will be wasted. I think in this matter there was a little bit of hurry and I do not think the motion ought to have been moved unless the facts had been ascertained and perhaps, I may admit, it would have been better on my part to let this motion stand over till tomorrow morning, so that the facts might have been ascertained in the meantime.

Sardar Sant Singh (West Punjab : Sikh) : Sir, I have listened with great attention to the speech of the Mover of the motion and the speech of the Honourable the Home Member and I find there is some confusion as to the issue involved in this adjournment motion. I must submit that the issue is not whether the Referee to the match between an Indian team and a British team was partial or impartial. Neither is there the issue whether the team was justified or not justified in accepting the decision of the Referee nor is there the issue that the spectators were justified or not justified in the subsequent conduct which followed the incident, but the issue which is before the House and which is the subject matter of this motion is how far the soldiers were justified in taking the law in their own hands by assaulting the unarmed crowd which was there. That is the issue and from that point of view we have to see whether the facts have been established or not that there were assaults by British soldiers on the unarmed crowd that had gone there to witness the match.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must remember that the facts are not undisputed.

Sardar Sant Singh : I am coming to that. My position is that after the speech which the Honourable the Home Member has made in this House one fact remains clear and undisputed and that fact is that after the match there was an excitement in the crowd. There can be no doubt about it. The excitement had gone up to such a degree that it led to the acts of mischief by the crowd and assault by the soldiers.

The Honourable Sir Henry Craik : On a point of personal explanation. I have never said anything of the kind at all. I said there was not the slightest evidence that any of these injuries were caused by the soldiers nor is there evidence that the soldiers came in conflict with the crowd at all, so far as I am aware.

Sardar Sant Singh : I am sorry the Honourable the Home Member has not understood me. I said that from the speech of the Honourable the Home Member this fact is very clear that the crowd was excited after the match. Does he dispute this fact ? If he does, then the subsequent acts of the crowd and the subsequent acts of the soldiers should not have happened as they have happened. Nobody can dispute the fact there was much excitement.

The Honourable Sir Henry Craik : The Honourable Member is representing an inaccurate version of my speech. I have never admitted that there were any acts by any soldiers in conflict with the crowd. The soldiers did not come into the picture at all.

Sardar Sant Singh : I will again say that the Honourable Member has not tried to understand me. What I say is not what the soldiers did, but what I say is that there was an excitement on the spot after the match was over. Does he admit this fact or not? The question is and the question is of great importance whether the soldiers who were there did take part in assaulting the crowd or not and this fact is denied by the Honourable the Home Member. I may say without any fear of contradiction that the knowledge of the Honourable the Home Member so far as it relates to his personal knowledge and he said that he saw something there in the match, I do not dispute. But as regards that portion of his statement which is the result of his enquiries, I dispute that portion and I have got very good grounds to dispute the same. I will now relate all the facts that came to my knowledge. I was sitting with a friend in the Cecil hotel when a boy from the football field came running to me and told me what happened in the football tournament. After that I went to the Mall to make enquiries myself and found British soldiers coming from the Mall side towards the Cecil hotel singing jubilant songs and making a great hue and cry. That really gave me a great shock of my life. There were two friends of mine who were present with me then and they will bear me out that soldiers were singing and making a lot of noise as if they were celebrating some great victory. It was at that time that I learnt of a Muslim boy having been seriously injured and that on his way to the hospital he died. I did not put much faith in this heresay story, therefore as soon as I went home I phoned up the Associated Press to find out whether the boy was dead or simply injured. So far as this portion of the report about the death of the boy is concerned, I may safely say that this rumour was current at that time of his death. I am very happy to know that it had proved untrue later on. However, Sir, coming to the point the fact still remains that every man on the Mall was complaining of the behaviour of the British soldiers in assaulting the unarmed crowd there. Nobody can contradict this fact that assault was made. Why? I ask the Government to take up the attitude that they will make thorough enquiry into the matter and come to a definite decision whether the British soldiers did assault. We have substantial grounds for alleging that the British soldiers did assault the innocent and unarmed crowd in the football match. When there is dispute between the two parties on this point, we are entitled to demand from the Government an enquiry into the conduct of the soldiers. If our allegation is correct that the British soldiers did assault the crowd, the question remains what right had the British soldiers to take the law in their own hands and assault the crowd, except if it be in the right of private defence. Of course it is the duty of the police to maintain law and order. Why was not the police sent for? Why did not the police take up the matter in their own hands. These are relevant questions which the Government will have to answer. If the soldiers rely upon the right of private defence for their assault on the crowd, then the Government will have to state how many persons amongst the soldiers had received injuries in the assault by the mob upon the soldiers. There is no such

proof. The Honourable the Home Member has not come out with any facts that soldiers received injuries at the hands of the mob. This is a point which we expect the Government to make clear, whether any soldier received any injury at the hands of the mob.

The Honourable Sir Henry Craik : I never made any assertion that any soldier received any injury at the hands of the mob, nor did the soldiers rush at the mob. Nothing of the kind happened. The Honourable Member is drawing entirely from his own imagination.

Sardar Sant Singh : I happen to have one. Then, the point is if the soldiers did not receive any injury at the hands of the crowd, what right had they to assault the crowd. So far as I know there was no order from their Officer to make any assault on the crowd. The question is were there or were there not any commanding officers of the army who could have controlled the soldiers. I understand that there were officers of the army who were present there. I would like the Defence Secretary to enlighten us on the point whether at that time and in the circumstances an officer of the army is entitled to assume command of the soldiers or not. I am ignorant of that fact. I would like the Honourable Member to clear this point. I understand that Lieut.-General G. Brand was present and was an eye-witness to the whole affair. Why did he not take up the command of the soldiers and control them. If that officer did not do so, I think the Government deserves to be censured in this House.

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : Sir, I have listened with great attention to the statement of the Honourable the Home Member and his statement clearly indicates that from whatever point of view we look at it, we on this side of the House can hardly put our faith in that statement. It may be that the information, which the Honourable the Home Member had, may be from an eye witness on the field, but nonetheless we were informed on this side of the House by my Honourable friend, Pandit Lakshmi Kanta Maitra, that there were serious injuries inflicted to a boy and in the morning the Honourable the Law Member also admitted that the collar bone of the boy was broken.

The Honourable Sir Nripendra Sircar (Law Member) : I must correct my Honourable friend. I did say that I believed that the collar bone was injured or broken, but I made it perfectly clear that I was not asserting that his collar bone was broken. If my Honourable friend wants to quote me, he will quote me correctly.

Mr. D. K. Lahiri Chaudhury : After the interruption which was made by my Honourable friend, Mr. M. Asaf Ali, the Honourable Member shelved his previous remarks and said that his collar bone was either injured or broken. One can easily understand whether it is easy to injure or break the collar bone unless there was a big assault. Even if the collar bone was merely injured, it amounts to grievous hurt under the penal law of the land. That is the legal aspect of the matter. The Honourable the Home Member said in his statement that the referee was giving a very fair decision till the end of the game, but this is absolutely without foundation. I came in contact with the players of the Indian team who took part in the game. I do not want to give the name of the gentleman whom I met, he told

[Mr. D. K. Lahiri Chaudhury.]

me that up to 50 minutes, the only goal scored was that of the Indian team and when there was only ten minutes left, the referee was anxious to give an advantage to the Army soldiers team and so he gave six or 7 fowls and other decisions which were absolutely incorrect according to the judgment of everybody. Later on three penalty kicks were given by referee most partially which took over time than the scheduled time.

The Honourable Sir Henry Craik : We are not now discussing the merits of the referee's decisions.

Mr. D. K. Lahiri Chaudhury : One fact is clear that when the game was over, and when the Indian team retired to their camp, the spectators came over and demanded justice. They did not show any demonstration. I challenge the statement that there was any demonstration on the part of the spectators before the assault was made. There was no demonstration till then. All of a sudden the British soldiers began to assault the crowd.

Mr. President (The Honourable Sir Abdur Rahim) : I hope the Honourable Member will not convert this debate into another football match.

Mr. D. K. Lahiri Chaudhury : For the information of the Honourable the President, I may say that I played football in my school days. I am interested in football and that is why I am standing here to speak on behalf of the injured team. I was interested in Calcutta teams and I used to take part in football associations. It is certainly a fact that these spectators were showing no demonstration. Then I am told the Royal Scots Regiment rushed towards the public and started the assault. Why ? Because they demanded justice. They only made one shout and one cry demanding justice. If that be a demonstration I think any honest cry may come under the category of a demonstration. It is absolutely without foundation to say that they were unruly. The fact is, as stated by my Honourable friend, Sardar Sant Singh, that the soldiers had no business to interfere and clear up the ground ; that is the duty of the police. And were these boys assaulted by the police or by the soldiers ? The Honourable the Home Member said that no soldiers were injured. But how can he expect the soldiers to be injured when they attacked an unarmed mob ? It is only the public who were injured. Who made these injuries ? Certainly it was the soldiers and not the policemen, and that is the only reason why this adjournment motion has been moved. The time has come when some serious steps should be taken about these Tommies who come to witness the game, in order to keep them in order. It is true not only of Annandale but also of other places throughout India where it is happening every day. If there is any difference of opinion between this side and Government, that is all the more reason that there should be a committee of inquiry consisting of the elected Members of this House as well as Government Members to go into the matter and find out the truth.

The Honourable Sir Nripendra Sircar : With Mr. Lahiri Chaudhury as President.

Mr. D. K. Lahiri Chaudhury : Yes, certainly, why not ? And I will take you as my Deputy (Laughter), in which case the legal side will be absolutely safe. The fact is that there has been an assault, and though it has been said by the Home Member that it is a slight assault, I think that is a question of opinion. Our information is that the injuries are serious. Why should a man with a slight injury be taken to hospital ? For slight injuries there are medical arrangements on the ground itself ; and the fact that the boys were taken to hospital clearly indicates that they were seriously injured. He contradicted the statement of my Honourable friend, Pandit Lakshmi Kanta Maitra, that there was a gash of four inches and said it was only 2½ inches and the only skin was cut. But there was profuse bleeding and if the skin was cut there could not be profuse bleeding. But there are two versions of the fact and that is why there should be an impartial inquiry by the elected Members of this House as well as Government. This is a very serious question. These soldiers who come to witness the game are always unruly and take the law in their own hands and deal with the public in a most atrocious way. That must be stopped, and it is with that simple object that this motion was tabled. I think the time has come for the military department to take adequate steps to stop these things. Sir, I support the motion.

Several Honourable Members : The question may now be put.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the question be now put.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the House do now adjourn.”

The motion was negatived.

RESOLUTION *RE* INTERFERENCE FROM PUBLIC SERVANTS IN THE ENSUING ELECTIONS.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion of the Resolution. Sir Henry Craik.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : I move, Sir, that the question be now put.

The Honourable Sir Henry Craik (Home Member) : Sir, I am sorry, I have lost rather the thread of my speech—I was in the middle of it and I am not quite sure that I am in a position to resume it.....

Mr. President (The Honourable Sir Abdur Rahim) : If the House desires not to sit any longer, I will adjourn.....

Honourable Members : Let us go on.

The Honourable Sir Henry Craik : Sir, I think I was enunciating the policy of the Government in regard to certain features of elections. I think I had finished that part : and now I will try to deal with such

[Sir Henry Craik.]

allegations as have come to my knowledge of alleged acts of interference by individual officers of Government. I have made inquiries from all Local Governments as regards such allegations and the general effect of the replies I have received is as follows. The Burma Government stated that only one allegation had been made, that it had been investigated and found to be untrue. The Punjab Government said that in one case the allegation was made that a Government servant had used his official position to influence an election. The Government servant in question was a subordinate judge and his wife is or was a candidate for a certain women's seat in the new Assembly. I think the House will agree that the gentleman in question was probably in rather a difficult position, torn between loyalty to his wife and to the Government Servants' Conduct Rules. However, he was reminded that his duty was to abstain from all interference. Next I come to the province of Bihar, where apart from certain general criticisms that the present Ministers are taking part in electoral tours, there have been very few complaints against officials as such. Certain complaints were made, e.g., that certain District Magistrates had invited local people to meet the Minister when he visited their district on tour. An insinuation of that sort really hardly requires any refutation and I cannot see that it is in fact an allegation of a breach of the Government Servants' Conduct Rules. Then certain allegations have been made against His Excellency the Governor personally, but that it would be out of order for me to discuss under the rules of this Assembly. I only mention these as showing how wild the allegations are and if it were in order for me to discuss them, I think I could completely refute them.

Next we come to the United Provinces where I find a number of allegations were made in a letter that was addressed to a large number of Members of this Assembly by a gentleman called Rafi Ahmed Kidwai, who, I understand, is the president of the United Provinces Provincial Congress Committee....

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : At last you are correctly informed !

The Honourable Sir Henry Craik : I am generally correctly informed. (Laughter.) The Honourable Member will find that my information is usually correct. I have asked the United Provinces Government whether they want me to say anything about the allegations made by this gentleman and the reply I have is that his allegations are for the most part a tissue of absurd falsehoods. I understand that this gentleman's party are largely relying in their election campaign on propaganda to the effect that their opponents are a party backed by Government.....

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Which is a fact !

The Honourable Sir Henry Craik : and they hope that by that propaganda they will weaken the popular position of their opponents : at the same time, if they themselves are defeated they have got a perfectly plausible excuse ; and they are busily engaged in finding facts to fit in with this kind of propaganda. A debate on

much the same question, but dealing with local elections and not with legislative elections, took place in the United Provinces Legislative Council a short time ago when a number of allegations were made of that kind. This was in June of this year and they were met in a long speech by the Government Member concerned who showed that the allegations were for the most part completely unfounded.....

Pandit Govind Ballabh Pant : Are there any Congressmen in the United Provinces Legislative Council ?

The Honourable Sir Henry Craik : I do not know. There was one substantial allegation made in this letter of Mr. Rafi Ahmed Kidwai about a gentleman named Mr. Hobart, a Commissioner in the United Provinces, and another gentleman named Mr. Darling who is also a Commissioner. The letter says "Commissioners like Messrs. Hobart and Darling have never considered themselves bound by any such restrictions"—that is restrictions like the Government Servants' Conduct Rules—"Mr. Hobart recently visited Basti where he interviewed all possible anti-Congress candidates and selected one for one of the constituencies in the district and made others retire in favour of his nominee. Of all the candidates in the field to contest the Khalilabad seat, he thought none would have a chance against the Congress nominee, and therefore he persuaded a certain gentleman (whose name I had better perhaps not mention) to seek election from that constituency; and these in my opinion will be adopted as candidates of the Nationalist Agriculturist Party". There is a lot more about this gentleman. The Government of the United Provinces reports that the only action Mr. Hobart took in connection with elections at all was to compose certain differences among rival candidates in his own division.....

Pandit Govind Ballabh Pant : Is that proper ?

The Honourable Sir Henry Craik : I do not really see that it is, under the strict letter of the law, improper.

Pandit Govind Ballabh Pant : That does not amount to any interest in elections ?

The Honourable Sir Henry Craik : I do not think it does. If two candidates, as I imagine happened in this case, referred their differences to the Commissioner, I do not think it is improper for the Commissioner.....

Pandit Govind Ballabh Pant : Appointed him umpire ?

The Honourable Sir Henry Craik : I understand that they referred their differences to him and asked him to settle them.....

Pandit Govind Ballabh Pant : Are Government servants allowed to do that ?

The Honourable Sir Henry Craik : I do not see that that is improper. It is certainly not interfering with or identifying himself with any particular party. I would say that on a strict reading of the rules, it does not seem to me to violate the letter of the rules nor does it in principle violate the spirit of the rules.

Pandit Govind Ballabh Pant : It is proper then for Government servants to interfere in that manner ?

The Honourable Sir Henry Craik : That is the only foundation for the allegation made in this letter of Mr. Rafi Ahmed Kidwai against Mr. Hobart. As regards the other officer, the Local Government say that so far as they are aware there is no foundation at all : he did not even do that comparatively harmless task : he has not interested himself in any way whatever in the elections. Then there is a further statement in the letter that the Government staff employed in village uplift work are used as an electioneering agency. That, I am told, is a completely false statement which has no foundation whatsoever. Lastly, I come to the allegations about a circular issued by the Court of Wards, but as that is a subject which may take some time, perhaps I may be allowed to reserve my remarks till the resumption of this debate next day.

Mr. President (The Honourable Sir Abdur Rahim) : Very well.

5 P.M.

Before the House adjourns, I would mention that I wanted to sit till 6 o'clock tomorrow, but I understand now that there is a function in honour of the South African Delegation and many Members of this House want to attend it and therefore I have been asked not to sit beyond 5 o'clock tomorrow. I have also been asked that the question hour may be dispensed with tomorrow. If that is the desire of the House, I shall do so.

Honourable Members : Yes.

Mr. President (The Honourable Sir Abdur Rahim) : Well, then, there will be no questions tomorrow. The House stands adjourned till 11 o'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 2nd October, 1936.

LEGISLATIVE ASSEMBLY.

Friday, 2nd October, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

MEMBER SWORN.

Mr. Susil Chandra Sen (Government of India : Nominated Official).

STATEMENTS LAID ON THE TABLE.

Information promised in reply to starred question No. 1593 asked by Mr. M. Asaf Ali (on behalf of Mr. S. Satyamurti) on the 14th April, 1936.

DISCONTINUANCE OF THE USE OF CASTOR OIL AS LUBRICANT ON STATE RAILWAYS.

(a) Yes.

(b) (i)—(vi). Yes.

(c) Yes.

(d) A statement giving the information is attached.

(e) Yes.

(f) The Local Governments mainly interested are doing considerable work to encourage the castor oil industry. The United Provinces Department of Agriculture have an oil Technological Section at the Harcourt Butler Technological Institute, Cawnpore, with specialist staff to give technical advice to oil mills and train up skilled personnel. The Oil Section has been paid a grant of Rs. 30,000 per annum for the last three years by the Imperial Council of Agricultural Research for the training of candidates in oil technology. The Government of Bengal have been encouraging the use of better *ghannies*. In the Central Provinces, improvement in oil crushing industry has been attempted by issuing useful notes in oil and its possibilities and giving expert advice to industrialists. In Madras the efforts have taken the form of publication of bulletins, conducting experiments and demonstrations and investigations of the possibilities of widening the market and improving milling machinery.

(g) The available figures do not justify apprehensions regarding the fate of the castor seed crushing industry as a result of the reduction in purchase of castor oil by railways.

(h) and (i). In many provinces castor cake is at present not appreciably used as a fertiliser for sugar cane and where it is used to any considerable extent, as in the United Provinces and Bombay, there are alternative oil cakes, and in some places safflower cake has actually been used in place of castor cake as a manure for sugar cane.

The effect on Indian Agriculture of a reduced demand of castor oil by railways is negligible.

(j) Experience has failed to show any marked superiority.

(k) Yes ; but for most purposes, the advantages are more than counterbalanced by the higher cost.

(l) Government have no reason to believe that the substitution of mineral for castor oil as a lubricant has in any way enhanced the incidence of repairs to, or replacements of, locomotives.

(m) The intention of Government is to adhere to the Stores purchase rules, but railways cannot be expected to purchase indigenous oil when suitable imported mineral oils can be obtained for prices varying between 60 and 100 per cent. below that of the indigenous product.

(n) No.

Statement showing the quantities of castor oil and mineral oils purchased by the State-managed Railways during the years 1931-32 to 1935-36 and proposed to be purchased during 1936-37 for locomotive bearings.

Railway.	Purchased during 1931-32 to 1935-36.										Proposed to be purchased during 1936-37.		
	1931-32.		1932-33.		1933-34.		1934-35.		1935-36.				
	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.			
North Western ..	5,906	70,157	5,948	39,834	5,042	37,282	4,818	50,343	3,230	78,703	Castor oil cwts.	Mineral oil cwts.	64,000
Great Indian Peninsula ..	7,500	26,000	8,500	20,000	5,000	18,000	5,300	23,700	5,300	21,400	5,300	21,400	
Eastern Bengal ..	Information not readily available.		28	14,745	276	13,318	164	16,029	155	15,776	195	17,440	
East Indian ..	18,570	49,496	14,967	41,293	10,003	36,823	13,501	37,923	19,556	40,000	4,267	20,000	
Burma ...	139	7,907	168	7,914	161	7,528	92	8,284	87	7,088	89	8,086	
	32,115	153,560	29,611	123,786	20,482	112,951	23,875	136,279	28,328	162,967	9,851	130,926	

Information promised in reply to starred question No. 1771 asked by Mr. S. Satyamurti (on behalf of Pandit Govind Ballabh Pant) on the 18th April, 1936.

DISCONTINUANCE OF THE USE OF CASTOR OIL AS LUBRICANT ON STATE RAILWAYS.

(a) Yes.

(b) (i)—(vi). Yes.

(c) Yes.

(d) A statement giving the information is attached.

(e) The Local Governments mainly interested in castor are doing considerable work to encourage the castor oil industry. The United Provinces Department of Agriculture have an oil Technological Section at the Harcourt Butler Technological Institute, Cawnpore, with specialist staff to give technical advice to oil mills and train up skilled personnel. The Oil Section has been paid a grant of Rs. 30,000 per annum for the last three years by the Imperial Council of Agricultural Research for the training of candidates in oil technology. The Government of Bengal have been encouraging the use of better *ghanacs*. In the Central Provinces, improvement in the oil crushing industry has been attempted by issuing useful notes on oil and its possibilities and giving expert advice to industrialists. In Madras the efforts have taken the form of publication of bulletins, conducting experiments and demonstrations and investigations of the possibilities of widening the market and improving milling machinery.

(f) The available figures do not justify apprehensions regarding the fate of the castor seed crushing industry as a result of the reduction in purchase of castor oil by railways.

(g) and (h). In many provinces, castor cake is at present not appreciably used as a fertiliser for sugar cane and where it is used to any considerable extent as in the United Provinces and Bombay, there are alternative oil cakes, and in some places safflower cake has actually been used in place of castor cake as a manure for sugar cane.

The effect on Indian Agriculture of a reduced demand of castor oil by railways is negligible.

(i) Experience has failed to show any marked superiority.

(j) Yes ; but, for most purposes, the advantages are more than counterbalanced by the higher costs.

(k) Government have no reason to believe that the substitution of mineral for castor oil as a lubricant has in any way enhanced the incidence of repairs to, or replacement of, locomotives.

(l) The intention of Government is to adhere to the Stores purchase rules but railways cannot be expected to purchase indigenous oil when suitable imported mineral oils can be obtained for prices varying between 60 and 100 per cent. below that of the indigenous product.

Statement showing the quantities of castor oil and mineral oils purchased by the State-managed Railways during the years 1931-32 to 1935-36 and proposed to be purchased during 1936-37 for locomotive bearings.

Railway.	Purchased during 1931-32 to 1935-36.										Proposed to be purchased during 1936-37.	
	1931-32.		1932-33.		1933-34.		1934-35.		1935-36.			
	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.	Castor oil cwts.	Mineral oil cwts.		
North Western ..	5,906	70,157	5,948	39,834	5,042	37,282	4,818	50,343	3,230	78,703	Nil.	64,000
Great Indian Peninsula ..	7,500	26,000	8,500	20,000	5,000	18,000	5,300	23,700	5,300	21,400	5,300	21,400
Eastern Bengal ..	Information not readily available.		28	14,745	276	13,318	164	16,029	155	15,776	195	17,440
East Indian ..	18,570	49,496	14,967	41,293	10,003	36,823	13,501	37,923	19,556	40,000	4,267	20,000
Burma ..	139	7,907	168	7,914	161	7,528	92	8,284	87	7,088	89	8,086
	32,115	153,560	29,611	123,786	20,482	112,951	23,875	136,279	28,328	162,967	9,851	130,926

Information promised in reply to a supplementary question asked by Pandit Lakshmi Kanta Maitra to Mr. M. Asaf Ali's starred question No. 526 on the 18th September, 1936.

POSTAL CHARGES ON MAILS BY AIR.

Rates of Air Fee (excluding postage).

Country.	To India.			From India.		Remarks.
	Postcards (single).	Letters and packets.		Post-cards.	Letters and packets.	
		Rate of air fee in Indian currency.*	Unit of weight.				Rate of air fee in Indian currency.†	Rate for half ounce.
United Kingdom ..	Rs. a. p. 0 2 8 (includes postage).	½ oz.	Rs. a. p. 0 5 4 (includes postage).	The fee for postcards from India is two annas in all cases except to the U. S. A. for which it is three annas.	Annas. 7½ (includes postage).	
Irish Free State ..	0 4 0	Ounce.	0 11 7		6	
Norway	0 4 9	5 grams.	0 4 9		6*	* Rate by India-Greece-Germany service is 8 annas for letters and 3 annas for postcards.
Sweden	0 4 6	5 "	0 4 6		6*	
Germany	0 3 6	5 "	0 3 6		6*	† By Imperial Airways' service.
Holland	0 5 7	5 "	0 8 5†		6*	
Belgium	0 5 8	5 "	0 5 8		6	
France	0 14 0	10 "	0 14 0		6	
Spain	1 1 6	10 "	1 1 6†		6	† Rate for packets is 0-14-0 for 20 grams.
Switzerland ..	0 4 2	5 "	0 4 2		6	
Hungary	0 8 7	5 "	0 8 7		6*	
Italy	0 4 9	5 "	0 4 9		6	
Greece	0 7 10	10 "	0 7 10		6	
South Africa ..	0 6 8	½ Ounce.	0 13 4§		9	§ By Air to Rangoon.
Rhodesia (Northern) ..	0 4 5	½ "	0 9 9		8	
Rhodesia (Southern) ..	0 1 9	½ "	0 4 5		8	
Egypt	0 14 7	20 grams.	0 14 7		4	
Iraq	0 1 3	10 "	0 2 6		4	
Malaya	0 1 3	½ Ounce.	0 2 6		4	
Dutch East Indies ..	0 11 2	20 grams.	1 9 3||		6	|| By Imperial Airways. Rate by K. L. M. is one-third of the rate by Imperial Airways.
Australia	0 6 2	½ Ounce.	0 12 5		8½	
New Zealand	0 10 8	½ "	0 10 8		8½	
Canada	1 2 0	½ "	1 2 0		6	
U. S. A.	0 9 4	½ "	0 9 4		6	

* The rates of air fee are quoted from the List AV-1 (List of Air Lines, Routes, Surtaxes, etc.), May 1936, published by the International Bureau. Conversion into Indian currency having been made through the medium of the gold franc from the monetary units as published in the Recueil des Taxes (corrected up to date) and at 14 annas to the gold franc. Conversion from sterling currency has been made at 1s. 6d. to the rupee.

Mr. S. Satyamurti (Madras City : Non-Muhammadian Urban) : Sir, before the proceedings begin, may I make a submission ? Yesterday, Sir, in the speech of Sir Muhammad Yakub.....

Mr. President (The Honourable Sir Abdur Rahim) : He is not here. Let the Honourable Member come, and then you can make your submission.

Mr. President (The Honourable Sir Abdur Rahim) : Short notice question by Mr. Bajoria. (Mr. Bajoria was not in his seat when he was called to put his short notice question.)

The Honourable Sir Frank Noyce : I venture to submit, Sir, that when an Honourable Member on these benches accepts a short notice question and gives the date on which it will be answered, courtesy demands that the Honourable Member who gave notice of the short notice question should be present in his seat.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should have been present in his seat. I do not know what has caused his absence.

MOTIONS FOR ADJOURNMENT.

INDIAN-OWNED SHIPPING SERVICE BETWEEN INDIA AND EUROPE.

Mr. President (The Honourable Sir Abdur Rahim) : There is a motion for adjournment by Pandit Govind Ballabh Pant. He intends to ask for leave to move for the adjournment of the business of the House to discuss a matter of urgent public importance, namely, the refusal of the Government to foster and help the project for Indian-owned shipping service between India and Europe, as disclosed in the statement of Seth Walchand Hirachand, published in yesterday's *Hindustan Times*.

I should like to know how the matter is urgent.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : May I request you, Sir, whether it will not be possible to postpone it till Monday ?

Mr. President (The Honourable Sir Abdur Rahim) : No, I can't do that. But I should like to know how this matter is regarded as urgent.

Pandit Govind Ballabh Pant (Rohilkund and Kamaon Divisions : Non-Muhammadian Rural) : Sir, a statement was published in the *Hindustan Times* of yesterday which seems to have been issued on the authority of Seth Walchand Hirachand, the promotor of the Hind Lines, for the purpose of establishing overseas service between India and Europe. In that statement he says that he had tried to obtain the assistance of the Government of India, but failed in that endeavour. This fact came to my notice and of the public only yesterday when this statement appeared in the papers, and the moment I saw it I gave notice of this motion....

Mr. President (The Honourable Sir Abdur Rahim) : The question is an old one.

Pandit Govind Ballabh Pant : The refusal is a recent one.

Mr. President (The Honourable Sir Abdur Rahim) : Is there any change of policy ?

Pandit Govind Ballabh Pant : The Government of India are always apathetic to all sorts of Indian enterprises, and so far as this particular matter is concerned, there has been a breach of policy as announced and declared by the Government....

Mr. President (The Honourable Sir Abdur Rahim) : When was it announced ?

Pandit Govind Ballabh Pant : The Government of India announced their policy soon after the report of the Indian Mercantile Marine Committee.

Mr. President (The Honourable Sir Abdur Rahim) : When was that ?

Pandit Govind Ballabh Pant : In 1923. I will point out how there has been a breach. In that Report the Government of India gave an undertaking that they would help the country in establishing an Indian Mercantile Marine. After that, there was the Haji's Bill, of which you are aware.....

Mr. President (The Honourable Sir Abdur Rahim) : You mean the coastal traffic ?

Pandit Govind Ballabh Pant : Yes, Sir. After that, there was a shipping conference in 1930. After that, the Government of India again issued a communiqué to the effect that the Government of India recognised their responsibility in the matter of the encouragement and establishment of Indian shipping including overseas Indian trade, and there they also definitely said that they accepted their responsibility in this matter, Sir, you are aware that a number of questions were put in this House, in fact it has been one of the questions in the forefront, and it has been mooted on the floor of the House almost incessantly.....

Mr. President (The Honourable Sir Abdur Rahim) : During the Budget Session.

Pandit Govind Ballabh Pant : Yes, Sir, but the Government of India always took shelter under some plea or other. I may inform you, Sir, that there was some correspondence between the head of the Government of India and the promoter of this Hind Lines. This company was registered on the 9th September, 1936, and there was....

Mr. President (The Honourable Sir Abdur Rahim) : When was the company promoted ?

Pandit Govind Ballabh Pant : It was promoted on the 9th September, 1936. There was correspondence between the promoter of this company and the head of the Government of India, and he was informed.....

Mr. President (The Honourable Sir Abdur Rahim) : Was any request made ?

Pandit Govind Ballabh Pant : The request was that this company was being floated with an authorised capital of 10 crores, and 2 crores and 20 lakhs were needed for launching two ships of the type of Victoria and Lusitania, for payment to ship builders and for other accessories, and in that connection a request was made to the Government of India for a loan of 2 crores 20 lakhs guaranteeing interest at 3 per cent. for 10 years. But no response was made either by the Honourable the Commerce Member or the Finance Member. Then the promoter approached His Excellency the Governor General as the head of the Government of India.....

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : When the Honourable Member says that no definite response was made, does he mean that the request which was made was not accepted ?

Pandit Govind Ballabh Pant : Yes, the request was not accepted.

Mr. President (The Honourable Sir Abdur Rahim) : When was that ?

Pandit Govind Ballabh Pant : That was, I think, some time before August.

The Honourable Sir Muhammad Zafrullah Khan : Last winter, Sir. The *Hindustan Times* says it was last year.

Pandit Govind Ballabh Pant : Last year is a vague expression by itself. Anyway, the promoters did not take it as the final word, and they approached the head of the Government of India, and the Private Secretary to H. E. The Viceroy wrote like this on the 16th August, 1936....

The Honourable Sir Muhammad Zafrullah Khan : Sir, is the Honourable Member in order in reading a letter which purports to have been written on behalf of the Governor General by the Private Secretary ?

Pandit Govind Ballabh Pant : He is the head of the Government of India, and he replied in response to a request made to him.

Mr. President (The Honourable Sir Abdur Rahim) : Is it on behalf of the Government of India or on behalf of the Governor General ?

Pandit Govind Ballabh Pant : The contents of the letter clearly show that it was written by the head of the Government of India. It says :

“ His Excellency has already asked the Commerce Department to reconsider the question of financial assistance to an Indian Company apart from the question of your own or the Scindia Company's participation in the venture.”

This is in regard to the representation about overseas trade. It was in reply to a representation made to the head of the Government of India mentioning fully the history of the case and asking for such financial assistance as the Government of India were prepared to give and in reply to that there was correspondence and there were interviews. What I am concerned with is this letter that was sent on the 16th August, saying that His Excellency had also asked the Commerce

Department to reconsider the question of financial assistance. So, Sir, it was a continuing affair. His Excellency has asked the Commerce Department to reconsider the matter. Then after that another letter was written on the 23rd September which says : " He has, however, caused a copy of your letter to be sent to the Commerce Department who will he knows be very glad to examine and consider any further memorandum that you may desire to submit on the subject ". This happened on the 23rd September and he was told to make any representation he desired to the Commerce Department with reference to this matter and he was asked to approach the Commerce Department.

The Honourable Sir Muhammad Zafrullah Khan : Is the Honourable Member quite sure about the date—23rd September ?

Pandit Govind Ballabh Pant : Yes. Then on the 29th September, the Commerce Secretary informed Mr. Walchand Hirachand that no financial help could be given and on the 30th September the Commerce Member was approached by the promoters, who were told that the request could not be entertained. On the 1st, this thing appeared in the Press. I could not have been more vigilant than this and I did not like to move the adjournment of the House until all possible avenues had been tried.

Mr. President (The Honourable Sir Abdur Rahim) : This is undoubtedly a matter of public importance but the question raised by this motion for adjournment is certainly a very old one. There have been many questions in this House before and there have been debates on this subject and what is now alleged to be a matter of recent occurrence is the reply of the Honourable the Commerce Member to certain representations made to him and I understand he refused to consider the request that was made....

The Honourable Sir Muhammad Zafrullah Khan : To re-open the previous decision of the Government of India.

Mr. President (The Honourable Sir Abdur Rahim) : No doubt so far as the Honourable Member, Pandit Pant, is concerned, he has come to this House with this motion based on a certain statement which appeared in the Press only on the 30th September, and to that extent he cannot be blamed for having delayed the matter but I have got to look at the substance of the whole position and there can be no doubt that the matter cannot be said to be of recent occurrence. Nor is it an urgent question within the meaning of the Rules and Standing Orders. Therefore, I rule the motion out of order.

SECRECY OF VOTE IN THE RURAL AREAS OF THE UNITED PROVINCES.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion for adjournment is in the name of Mr. Mohan Lal Saksena, who wishes to move the " adjournment of the House to consider a definite matter of urgent public importance, namely, the failure of the Government of India to secure the secrecy of vote in the rural areas of the United Provinces as recommended by the Legislative Assembly. The decision of the Governor, United Provinces, in this matter has come to my knowledge only today. The decision was published in an extraordinary issue of the U. P. Gazette which was not available till today ".

[Mr. President.]

I should like to know exactly what is the question sought to be raised.

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadian Rural) : You are aware that this House had recommended while considering the Hammond Committee Report that throughout India the system of voting should be by means of coloured boxes with or without symbols. That recommendation had been passed by this House. About that, I put a short notice question which was answered on the 21st of September by the Law Member, in reply to which the Law Member had said that since the negotiations were still going on he could not make any public statement. On Monday last I had another question No. 643 on this very subject and then the Honourable the Law Member raised a point of order, saying that he had already answered a short notice question on this subject and 19 supplementaries and no further information was available and you were pleased to rule that the question was out of order. On that, I submitted that I had to put a few more supplementaries. I now find that the Governor in Council of the United Provinces has framed election rules that were published in an extraordinary gazette which was published on the 25th September. That copy was not available in the Library until yesterday.

Mr. President (The Honourable Sir Abdur Rahim) : When was it published ?

Mr. Mohan Lal Saksena : On the 25th September ; but on the 28th the Law Member himself said that there was no further information available.

Mr. President (The Honourable Sir Abdur Rahim) : What is the nature of the notification published ?

Mr. Mohan Lal Saksena : They are the election rules framed by the Governor in Council.

Mr. President (The Honourable Sir Abdur Rahim) : The election rules do not provide for secrecy ? Is it open voting ?

Mr. Mohan Lal Saksena : Yes. It is like this. In the case of illiterate voters the ballot papers will be marked by the presiding officer who may show it to a friend of the voter, while marking the ballot paper.

Mr. President (The Honourable Sir Abdur Rahim) : Was this not the practice before ?

Mr. Mohan Lal Saksena : This practice has been introduced this time in the United Provinces.

The Honourable Sir Nripendra Sircar (Law Member) : You are wrong there.

Mr. Mohan Lal Saksena : No, Sir. Up till now the practice was that the ballot papers were marked in the presence of the Agents by the Polling Officer but now the ballot papers will not be marked before them and will be shown to a friend of the voter. This is the new innovation. As a matter of fact, this House had recommended that this was undesirable. This proposal came before the House while we were considering the recommendation of the Hammond Committee.

and this House as well as the Select Committee appointed by it came to the unanimous decision that this practice should not be introduced and recommended that the system of voting should be by means of coloured boxes with or without symbols. So, I submit, this is a definite matter of urgent public importance and this House is concerned in this way, that under the new Government of India Act, the provincial legislative assemblies will form the electorate for the Federal Assembly.

Mr. President (The Honourable Sir Abdur Rahim) : Is the U. P. Council sitting now ?

Mr. Mohan Lal Saksena : It is not sitting. A resolution was also passed by the Council regarding securing secrecy of ballot.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable the Law Member take any objection ?

The Honourable Sir Nripendra Sircar : I have no objection to take in this forum.

Mr. President (The Honourable Sir Abdur Rahim) : The motion will be taken up at 4 o'clock.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will resume consideration of the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee. The following amendment is before the House.

“ That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

- (5) No managing agent, or where the managing agent is a firm a partner thereof, or where the managing agent is a private company any member or director thereof, or where the managing agent is a public company any director thereof, or the firm or private company of which the managing agent is a partner, member or director shall enter into any contract with the company for sale, purchase or supply of goods or materials except with the consent of the company in general meeting given generally or specifically :

Provided that nothing herein contained shall affect any contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.”

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, on a point of personal explanation. With regard to my short notice question of which I sent a notice, I was under the impression that since questions had been dispensed with, any short notice question would not be answered today ? However, since my impression was incorrect, may I read it now ?

Mr. President (The Honourable Sir Abdur Rahim) : No, no. Mr. James

Mr. F. E. James (Madras : European) : Sir, I was saying, when the House adjourned the other day, that while we agreed to all reasonable safeguards, we would oppose anything that is unnecessary, or undesirable, or in restraint of trade : and it is on these grounds that

[Mr. F. E. James.]

we oppose this particular amendment. I think, Sir, that this amendment is undesirable because, if it is accepted, it will open the flood-gates to all kinds of influences and manipulations. We think it is unnecessary in view of the safeguards that are already in the Act as amended or will be in the Act when subsequent amendments are accepted by the House. I would make a special appeal to my Honourable friend, Mr. Ayyangar, to consider withdrawing this amendment in view of subsequent amendments which have been tabled and which in our view offer a much more reasonable chance of agreement. If he is willing to make way for them, I hope, Sir, that, in view of these amendments that have been tabled, which might meet our point and which would I think secure a good deal of agreement in other parts of the House, he will be prepared to withdraw this amendment and the third one on the same order paper.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

- ‘ (5) No managing agent, or where the managing agent is a firm a partner thereof, or where the managing agent is a private company any member or director thereof, or where the managing agent is a public company any director thereof, or the firm or private company of which the managing agent is a partner, member or director shall enter into any contract with the company for sale, purchase or supply of goods or materials except with the consent of the company in general meeting given generally or specifically :

Provided that nothing herein contained shall affect any contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.’ ”

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar (Madras Ceded Districts and Chittoor : Non-Muhammadian Kural) : Sir, I rise to move :

“ That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

- ‘ (5) No managing agent, or where the managing agent is a firm a partner thereof, or where the managing agent is a private company any member or director thereof, or where the managing agent is a public company any director thereof, or the firm or private company of which the managing agent is a partner, member or director shall enter into any contract with the company for sale, purchase or supply of goods or materials except with the unanimous consent of the directors previously obtained :

Provided that nothing herein contained shall affect any contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.’ ”

Since I moved amendment No. 2 yesterday, we have had a talk over this matter with my Honourable friend, Sir H. P. Mody, who has given notice of an amendment that the unanimous decision or consent of the directors need not be insisted upon but that if a resolution is passed at a directors' meeting where there is a three-fourths majority who are entitled to vote on this matter, this may be done. Even under the existing Act directors are not entitled to vote if they have a specific interest in the contract with the company. Barring such directors, the rest of the directors can

vote with respect to any contract to be entered into with a managing agent for the sale, purchase or supply of materials or goods, etc. That is the amendment of which he has given notice. I am, therefore, if the House has no objection, prepared to substitute for " unanimous consent " " a three-fourths majority of the directors entitled to vote ", and then, with that, my amendment may be accepted. There is a small difference between Sir H. P. Mody's amendment as regards the persons that are prevented from contracting and mine ; our intention is that the managing agent ought not to enter into a contract without the consent of three-fourths of the directors. I am trying to avoid those persons who may come in in the name of others,—indirectly. I think both ourselves and my friend, Sir H. P. Mody, are in favour of preventing a managing director getting a contract by putting up people entitled to vote, indirectly. Sir, a managing agent can enlarge himself into various groups, and instead of saying " direct or indirect ", which is a very wide term, I have put certain restrictions. My friend, Sir H. P. Mody, has also enumerated some of these categories but has failed to include some, and therefore this is more comprehensive than the other. That is why I am prepared to " unanimous consent " being replaced by a " three-fourths majority ".

The Honourable Sir Nripendra Sircar (Law Member) : I am not yet clear what is the difference. Probably, to shorten matters, my friend will tell us what is the portion in Sir H. P. Mody's amendment in Supplementary List No. 10, he is objecting to.

Mr. M. Ananthasayanam Ayyangar : There are seven categories of persons that I have mentioned in my amendment. The managing agent or a partner of a managing agent ; if the managing agent is a firm, a partner thereof ; if it is a company, a director of managing agent of that company ; if the managing agent is a public company, a director of such public company or a firm or a private company of which the managing agent is a partner. I have included all these seven categories of persons who can come in under the term of the ' managing agent ' or persons interested in the managing agent. Sir Homi Mody has included only five of those persons. Sir, I have nothing more to add except to say that in place of a unanimous decision the majority of three-fourths may be accepted. I move, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

" That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

- (5) No managing agent, or where the managing agent is a firm a partner thereof, or where the managing agent is a private company any member or director thereof, or where the managing agent is a public company any director thereof, or the firm or private company of which the managing agent is a partner, member or director shall enter into any contract with the company for sale, purchase or supply of goods or materials except with the unanimous consent of the directors previously obtained :

Provided that nothing herein contained shall affect any contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.' "

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : May I be allowed to move my amendment, Sir, which stands as No. 1 Supplementary List No. 10 ?

Mr. President (The Honourable Sir Abdur Rahim) : Yes, you can move it.

Sir H. P. Mody : Mr. President, I beg to move :

“ That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

‘ (5) Except with the consent of three-fourths of the Directors present and entitled to vote on the resolution, a Managing Agent of the Company, or the firm of which he is a partner, or any partner of such firm, or, if the Managing Agent is a private company, a member or director thereof, shall not enter into any contract for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.’ ”

Sir, in this amendment I have tried to follow the phraseology of my amendment with regard to directors' contracts with companies, which amendment was accepted by this House. I have also tried to meet the viewpoint of some of my friends who were wanting to go much further than I. My original amendment with regard to managing agents was for a bare majority of the Board of Directors. In view of the opinions held by some of my friends, however, I have inserted a further safeguard by insisting upon a three-quarters majority of the directors present and entitled to vote. I believe that with this safeguard most of the objections of my friends have been met and I submit for their consideration the acceptance of my amendment. I need not say very much with regard to another amendment which has been tabled, which requires the unanimous vote of the Board of Directors. I have only to say, that it would make things extremely difficult if on a Board of Directors there was only one member who was inclined to be fractious or to put difficulties in the way of the management. That will make things unworkable. I consider that a three-fourths majority should be regarded as satisfactory by my Honourable friends. Sir, I move.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : What do you mean by “ entitled to vote ” ?

Sir H. P. Mody : “ Entitled to vote ” means that a director interested in the transaction could not possibly vote.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : He cannot vote in favour of his own contract.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

‘ (5) Except with the consent of three-fourths of the Directors present and entitled to vote on the resolution, a Managing Agent of the Company, or the firm of which he is a partner, or any partner of such firm, or, if the Managing Agent is a private company, a member or director thereof, shall not enter into any contract for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.’ ”

Mr. M. Ananthasayanam Ayyangar : May I, Sir, with your permission, explain how Sir Homi Mody's amendment differs from mine ?

He has excluded the managing agent as a firm or the firm of which he is a partner. The House will see that there is a lacuna. He says : " a managing agent of the company, or the firm of which he is a partner, or any partner of such firm."

There are two cases. One is where the managing agent is an individual and the other is where the managing agent is a firm or company. If he is a partner in a firm, of which he is a member, that partner is distinct from the firm as a whole. These three categories are sought to be included by Sir Homi Mody's amendment instead of the managing agent being an individual.

The Honourable Sir Nripendra Sircar : Sir Homi Mody has excluded nothing.

Mr. M. Ananthasayanam Ayyangar : He has excluded managing agent as a firm.

The Honourable Sir Nripendra Sircar : No. He says ' the firm of which he is a partner '. That is to say, if the managing agency is a firm then he is a partner of that firm. Nothing is excluded.

Mr. M. Ananthasayanam Ayyangar : If the managing agent is a firm itself, he cannot be a partner of another firm. The managing agent there is an individual.

The Honourable Sir Nripendra Sircar : That is covered by the first portion—a managing agent of the company. Nothing has been excluded. I do not know what the Honourable Member is chasing.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

" That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

' (5) No managing agent, or where the managing agent is a firm a partner thereof, or where the managing agent is a private company any member or director thereof, or where the managing agent is a public company any director thereof, or the firm or private company of which the managing agent is a partner, member or director shall enter into any contract with the company for sale, purchase or supply of goods or materials except with the unanimous consent of the directors previously obtained :

Provided that nothing herein contained shall affect any contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.' "

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

" That in clause 42 of the Bill, after sub-section (4) of the proposed section 87D, the following be inserted :

' (5) Except with the consent of three-fourths of the Directors present and entitled to vote on the resolution, a Managing Agent of the Company, or the firm of which he is a partner, or any partner of such firm, or, if the Managing Agent is a private company, a member or director thereof, shall not enter into any contract for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.' "

The motion was adopted.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Sir, I beg to move :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87E, for the words ‘ under management by the same managing agent ’ the words ‘ under same management ’ be substituted.”

Sir, this amendment does not make any vital alteration in the Bill. This alteration would only make the meaning clear of section 87E which refers to loans to or by companies under the same management. The section says :

“ No company.....which is under the management of a managing agent shall make any loan to or guarantee any loan made to any company under management by the same managing agent.”

As it is worded, it would not cover the meaning of managing agents which we have accepted and which we have sought to incorporate in every amendment before the House. Even the amendment which has been passed just now to make the meaning clear says :

“ A managing agent of the company, or the firm of which he is a partner, or any partner of such firm, or if the managing agent is a private company, a member or director thereon.”

By this amendment I seek to make the meaning clear. That is why I want to substitute the words ‘ under same management ’ for the words ‘ under management by the same managing agent ’. In my next amendment I seek to put in an *Explanation* to show the meaning of ‘ under same management ’. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in sub-section (1) of the proposed section 87E, for the words ‘ under management by the same managing agent ’ the words ‘ ~~under~~ same management ’ be substituted.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. If it had only made clear what was intended in the Bill, I would not have opposed it, but it leads to various consequences all of which I cannot contemplate just now. For instance, supposing there is a holding company under a subsidiary company, the holding company has a managing agent, whereas the subsidiary company has none. To a certain extent the directors have a control over the first holding company and they have complete control over the subsidiary company. They may be hit by the words ‘ same management ’.

Mr. T. S. Avinashilingam Chettiar : My amendment does not refer to directors, it refers only to managing agents.

The Honourable Sir Nripendra Sircar : If you want to put the word ‘ managing agent ’ who is managing a holding company ? There is a managing agent who is subject to the powers given to him, but still the management is in the directors of a holding company.

Mr. T. S. Avinashilingam Chettiar : If my Honourable friend refers to the *Explanation* contained in my next amendment, it will make things clear. My *Explanation* in amendment No. 106 reads :

“ For the purpose of this section and section 87F any two companies shall be deemed to be under the same management if a managing agent of one company or where such managing agent is a firm or company a partner of the firm or director or member of the company is directly or indirectly concerned or interested in the remuneration payable to the managing agent of the other company under his contract of management.”

The directors do not come in here at all. It refers only to the managing agent.

The Honourable Sir Nripendra Sircar : My Honourable friend is assuming that amendment No. 106 makes it simpler. I think he is mistaken. I have very strong objections to amendment No. 106 which has not yet been moved. It is carrying matters so wide that I shall discuss it when it comes on. At the present moment I am opposing amendment No. 105 because I do think that it does not make the position clear ; it leads to situations which we cannot just now contemplate. Supposing the *Explanation* contained in amendment No. 106 is not accepted and only amendment No. 105 is carried, the position will be one of great difficulty. I oppose the amendment.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadian Rural) : Sir, this amendment No. 105 also stands in my name. I do not however agree with my Honourable friend, Mr. Avinashilingam Chettiar, that the amendment merely aims at making matters clear. I think there is better substance in this amendment. What I mean is this. Supposing one and the same gentleman "A" is the managing agent of a certain company and he happens also to be the managing director of another company which is not being managed by a managing agent. This is a case in which practically both the companies are under the same management.

The Honourable Sir Nripendra Sircar : That is exactly what I had in my mind when I said that it will lead to impossible situations in respect of subsidiary companies, a subsidiary company being managed by directors and a holding company being managed by managing agents.

Mr. Akhil Chandra Datta : The real question is, is it desirable that one company should make a loan to another company, although both the companies are practically under the management of the same gentleman. That is the whole thing. If it is not considered desirable, then I submit this amendment should be accepted. It is really a question of principle.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, in sub-section (1) of the proposed section 87E, for the words 'under management by the same managing agent' the words 'under same management' be substituted."

The motion was negatived.

Mr. B. Das (Orissa Division : Non-Muhammadian) : Sir, I move :

"That in clause 42 of the Bill, to sub-section (2) of the proposed section 87E, the following be added at the end :

'and the managing agent who is accessory to the contravention of sub-section (1) shall vacate his office automatically.'"

Sir, I find that my friends on the Select Committee have provided a penal clause in sub-section (2) about any director or officer who is accessory to the loan to any subsidiary company by a fine of one thousand rupees. But the real culprit, the managing agent, who controls from the top all these companies and who allows the subordinate officials or even a willing and subordinately minded director to accede to the policy of giving loans from one company to another goes scot-free. Therefore, I want that that managing agent should not go scot-free and there should be certain penalties provided. I wish to remind the House of the recent Calcutta case where certain directors of the Dhakeswari Cotton Mills were

[Mr. B. Das.]

punished because money was advanced from one company to another. We know of the well known case in the Punjab where the funds of the Bharat Insurance Company were utilised by the managing agents of subsidiary companies to finance other companies. Although the present High Court of the Punjab has got hold of the managing agent and the case is *sub judice*, yet the law does not provide any punishment for the managing agent. I want to ask the Honourable the Law Member a question. Why punish the poor officers or the helpless director? Why provide penal clauses for them and not for the managing agent who is the real culprit and who mismanages the funds of a successful concern in financing unsuccessful concerns which he wants to continue to exist so that he can thrive and draw his fat allowances and managing agent's commission? I do hope I will have the support of my Honourable friend, Sir Homi Mody, who in all fairness and honesty of successful running of subsidiary companies and good companies ought not to advocate that managing agents should play ducks and drakes with the companies' money as it has been played in the Punjab and in Bengal. And no doubt there are such instances in Bombay which I need not quote and with which my Honourable friend, Sir Homi Mody, is so well familiar. Sir, with these remarks I commend my amendment to the House.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, to sub-section (2) of the proposed section 37E, the following be added at the end :

‘ and the managing agent who is accessory to the contravention of sub-section (1) shall vacate his office automatically.’ ”

The Honourable Sir Nripendra Sircar : Sir, I very much regret that my Honourable friend referred to the case of the Dhakeswari Cotton Mills. If he had gone through the papers of that case he would have found that although they were found technically guilty and punished, there was no question of any misappropriation or dishonesty on the part of the people who were the accused. What happened was that instead of showing Rs. 40,000 which in strict accounting they ought to have done on both sides of the account, they had omitted it altogether, the amount not appearing on either side. The balance would have been the same in any case and the court found that there was no dishonesty and nobody put any money in his pocket. I only hope that these things should not be said in a responsible place like the Assembly which are likely to cause misunderstanding. Be that as it may, I am not fighting their case.

Mr. B. Das : I did not mean to make any personal reflection against any particular director. I am sorry if any reflection was meant.

The Honourable Sir Nripendra Sircar : My friend was again wrong when he said that the only punishment is a fine of one thousand rupees. Of course one thousand rupees to him is nothing, it is a very small amount. But if you will read the provision you will find that the punishment is fine not exceeding one thousand rupees, and

“ shall be jointly and severally liable for any loss incurred by the company in respect of such loan or guarantee.”

Mr. B. Das : You are only punishing the director and the officer, not the managing agent.

The Honourable Sir Nripendra Sircar : Yes, after all the loan is to be given by some director or officer, and this automatic vacation I will oppose in any case.

Prof. N. G. Ranga (*Guntur cum Nellore : Non-Muhammadan Rural*) : Sir, I am happy to be able to agree with my Honourable friend, Mr. B. Das, in regard to this amendment. Usually it is very difficult for both of us to agree in matters like this, but in regard to this he seems to be really anxious to safeguard the interests of the shareholders in a very wholesome manner. I am not able to understand why the Honourable the Law Member has found it impossible to accept this amendment. It may be, Sir, that the Law Member is right in thinking that these people, the director as well as the officer, will be held jointly and severally liable for any loss incurred by the company in respect of such loan or guarantee. Sir, the director or the board of directors come into the picture only when a meeting of the board is held and their advice is sought to be taken. Otherwise for all usual purposes and on all business occasions it is the managing agent who really is responsible for taking any administrative action, for taking any particular decision, and giving any particular orders to the officers working under him. Therefore, Sir, I do not see any reason why the managing agent who really is made responsible for the day to day conduct of the affairs of the company should be made to go scot-free while the helpless director who may for the time being be there and be obliged to sign that paper sanctioning that loan and also that officer who executes that particular order are made liable to suffer. If it were found that a loan has been made in an illegitimate fashion and in a manner which is detrimental to the interests of the company and to cause loss to that particular company, then certainly the managing agent should also be made liable to punishment. And as this particular sub-section (2) runs, it is only the director or the officer who is liable to be punished. I should like to know whether the managing agent will also be considered to be one of the directors and whether he actually and directly sanctions that particular loan or not. Since he is considered to be in charge of the daily affairs of the company, will he also be considered as one of the directors for that particular loan and therefore made liable to the punishment enjoined here? If it were to be considered that he can escape this particular punishment, I think it is naturally fair that my Honourable friend's amendment should be accepted so that he can also be held responsible for this offence.

Mr. President (*The Honourable Sir Abdur Rahim*) : The question is :

“ That in clause 42 of the Bill, to sub-section (2) of the proposed section 87E, the following be added at the end :

‘ and the managing agent who is accessory to the contravention of sub-section (1) shall vacate his office automatically.’ ”

The motion was negatived.

Mr. T. S. Avinashilingam Chettiar : Sir, I move :

12 Noon.

“ That in clause 42 of the Bill, in the proposed section 87G, after the words ‘ issue debentures or ’ the words ‘ issue any capital or make calls or dispose of the whole or part of the undertaking of the company or refuse to transfer shares ’ be inserted.”

[Mr. T. S. Avinashilingam Chettiar.]

Sir, the House will see that 87G reads as follows :

"A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or, except with the authority of the directors, and within the limits fixed by them, a power to invest the funds of the company, and any delegation of any such power by a company to a managing agent shall be void."

It is clear that he can do everything else than issuing debentures and investing the funds of the company. This is rather too wide and by this amendment I seek to put some restrictions on the actions of the managing agents ; I want that these things—making calls, etc.,—should be done with the consent of the directors. By the amendment accepted previously—No. 10 on the Revised Final List—the amendment of the Deputy Leader of my Party, the directors of a public company shall not, except with the consent of the company concerned in general meeting, sell or dispose of the undertaking of the company or remit any debt due by a director. Part of the principle of it has been accepted in this amendment and I seek to include certain other things in regard to which the managing agent will be required to take the consent of the directors. I think this is a very healthy provision and will not place any obstacles to the transaction of business.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 42 of the Bill, in the proposed section 87G, after the words 'issue debentures or' the words 'issue any capital or make calls or dispose of the whole or part of the undertaking of the company or refuse to transfer shares' be inserted."

Sir H. P. Mody : On a point of order, Sir : I just want to know how my Honourable friend could introduce in this clause the last prohibition, namely, "or refuse to transfer shares" ? That has been disposed of—that comes under an entirely different provision of the Act ; and he is putting it into a clause of the Bill where it does not fit in at all.

Mr. President (The Honourable Sir Abdur Rahim) : What is the point of order ?

Sir H. P. Mody : That does not come in here.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Yes : read the whole clause.

Sir H. P. Mody : The clause will, with the amendment, read :

"A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or any capital or make calls or dispose of the whole or any part of the undertaking of the company or refuse any transfer of shares, or, except with the authority of the directors, and within the limits fixed, etc., etc."

There is no question of the sanction of the board of directors here, . . .

The Honourable Sir Nripendra Sircar : There is no point of order here.

Sir H. P. Mody : Refuse to transfer shares : how does it come in here ?

The Honourable Sir Nripendra Sircar : Sir, I do not think there is any point of order ; but I oppose the amendment on the ground that I think it is wholly unnecessary and possibly somewhat confusing for this

reason : the House will remember that it accepted an amendment moved by my Honourable friend, Pandit Govind Ballabh Pant, the result of which is that issue of capital and the sale of the whole or part of an undertaking have got to come before shareholders.....

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : I thought you declined to accept the issue of capital.

The Honourable Sir Nripendra Sircar : I stand corrected. In so far as the sale of an undertaking is concerned, if the managing agent could sell at all, that must be under delegation from the directors or the company. We have prohibited the directors from doing that ; and I do not really see how the managing agent can sell off the whole undertaking of a company if what the House has done stands, as it must. As regards issue of capital, either the managing agent can do it or he cannot. I do not think he can do it.....

Mr. Bhulabhai J. Desai : He may have a delegated power.

The Honourable Sir Nripendra Sircar : He can do it only if that power has been delegated to him. But my Honourable friend's amendment is mixed up with so many matters that I have got to object. There is first of all the issue of capital, then dispose of the whole or part of the undertaking and lastly refuse to transfer shares. I cannot accept the amendment as it is put here.

Mr. T. S. Avinashilingam Chettiar : May I know which you accept ?

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, may I, with your permission, move that the words " or dispose of the whole or part of the undertaking of the company " be omitted from the amendment under discussion ?

The Honourable Sir Nripendra Sircar : It is not objection for the sake of objection that I am taking : what I want to know is this : he will have no power to refuse transfer of shares : will he have the power to accept transfer of shares ?

Pandit Govind Ballabh Pant : Yes : if they want to refuse, then the directors must refuse, not the managing agent.

Mr. M. S. Aney (Berar Representative) : May I just point out how it will read then ? It will read :

" A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or issue any capital or make calls or refuse to transfer shares, or except with the authority of the directors, etc., etc., to invest funds....."

The authority of the directors relates only to the investment of funds. It has got nothing to do with what goes before. I believe the amendment as it stands takes away the powers of the managing agents in respect of these matters : and that is not the object of the Mover of this amendment, I know : but the way in which he has worded his amendment creates this difficulty.

Mr. Bhulabhai J. Desai : Sir, may I point this out ? Perhaps it will clear the position. It is true that in so far as the amendment now proposed is concerned, it will take away from the managing agents the

[Mr. Bhulabhai J. Desai.]

exercise of the three sets of powers there mentioned. But it is not necessary to say "except with the authority of the directors" there for this reason. In many of these cases you do find these powers not merely delegated *ad hoc*, but generally delegated in the sense that it appears as among the powers of the managing agents. And what is intended is that they should not be included in the powers of managing agents. There is no need to delegate anything. If the directors say, for instance, we shall issue calls or we shall refuse to transfer shares, there is no further need for any delegation whatever. Therefore, if the objection is that the directors cannot delegate such power, it is an objection without substance because they have exercised it themselves and there is no occasion for delegation. For instance, the directors may refuse to sanction a transfer, the directors may issue a call. Then there is no point in saying that the managing agent may do so with the sanction of the board of directors. There is no point in saying that, and the object really is to safeguard the existence of general powers conferred upon the managing agent in this behalf, taking them away entirely from the directors, for it is so possible to do by means of articles. Therefore I would ask my Honourable friend to reconsider this matter and accept this amendment.

Mr. T. Chapman-Mortimer (Bengal : European) : I should like to place one or two considerations before the House before we vote on this question. I would agree with my Honourable friend, the Law Member. The words are, "issue any capital or make calls or dispose of the whole or part of the undertaking of the company". In regard to both these points, as has already been pointed out by various speakers, the directors will have no power to delegate this power to the managing agent by virtue of this very Bill which we are now passing. In regard to the third point, if it is going to be taken away from the managing agent to act under general authority from the directors—to refuse to transfer shares,—an enormous amount of detailed work is going to be thrown on the directors. The usual practice in company management in a matter of this kind is for the directors to authorise the managing agent within certain limits to refuse to transfer shares. Very often the refusal has to be on purely technical grounds. All these have to be reported to the board and the board will certainly not authorise the managing agent to refuse to transfer shares except for some very technical reasons. If you are going to say that the directors cannot delegate this power in a general way you are going to make business extremely difficult. I oppose this amendment.

Mr. T. S. Avinashilingam Chettiar : I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Pandit Govind Ballabh Pant : There is an amendment in my name, No. 117, on this very subject. With your permission, I would move only this much :

"That in clause 42 of the Bill, in the proposed section 87G, after the word 'or' the words 'any capital or make calls or' be inserted."

I omit the words "dispose the whole or any part of the undertaking of the company or refuse any transfer of shares or". The amendment in the shape in which I have moved it is very restricted in scope. If Honourable Members read clause 87G they will find that a managing

agent will have no power to issue any debentures. The matters covered by my amendment are much more important than the issuing of debentures, such as the issuing of capital or making calls. And I think all business men in this House will accept that these matters should not be left to the discretion of the managing agent. So, I move that whenever such occasions arise the directors should dispose of them, if not the company itself, and in no case the managing agents.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in the proposed section 87G, after the word ‘ or ’ the words ‘ any capital or make calls or ’ be inserted.”

The Honourable Sir Nripendra Sircar : Sir, it is rather difficult to adjust oneself to rapidly changing amendments. It strikes me in this way. I have tried to put the words in the clause and it reads like this :

“ 87G. A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or any capital or make calls except with the authority of the directors.....”

Mr. President (The Honourable Sir Abdur Rahim) : No, no. It will read thus :

“ A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or any capital or make calls or, except with the authority of the directors.....”

The “ or ” is kept there, after the word “ calls ”.

The Honourable Sir Nripendra Sircar : I have nothing to add.

Mr. G. E. J. Robertson (Burma : European) : On behalf of the European Group I submit that such last minute amendments are really very confusing and it is rather a complicated subject. Even my Honourable friend, the Law Member, is finding it difficult to keep up with these last minute amendments. Apart from that, I really cannot see what difference the amendment now proposed makes to the existing position. It simply wants to provide that capital may not be issued or calls may not be made without the authority of the directors.....

The Honourable Sir Nripendra Sircar : No, no. He has added another “ or ” now.

Mr. G. E. J. Robertson : It is rather difficult to follow.

Mr. Bhulabhai J. Desai : The matter is very plain, and with great deference, I may say that there is no confusion. The rest of the Act is far more difficult than this simple point. All we want is that the managing agent shall not have the three sets of powers. One set is already mentioned in the section, namely, the issue of debentures. As regards the issue of capital and the making of calls we want that they should be reserved for directors, or, if the articles require, for the company in general meeting. The point is that the managing agent shall not get the right to exercise both these powers by a general article in that behalf.

Sir Leslie Hudson (Bombay : European) : Does not Regulation 71 which is now compulsory cover the whole thing ?

Mr. Bhulabhai J. Desai : No, it does not. It is subject to the regulations. This is a common form of regulation—I call it article, you will excuse my using it, because that was the original name. It still leaves power to the company under an article whereby the two powers, now the subject of discussion, could form part of the powers of the managing agent. What we say is that that should not be so, and I think we are right. Directors are the persons to make calls or issue capital. There is nothing severe. 71 certainly does not cover it.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : May I ask Pandit Pant whether he has deleted the word “ or ” or not, because it will make a big difference to the answer.

Pandit Govind Ballabh Pant : The amendment as it now stands reads thus : “ any capital or makes calls or ”. The word “ or ” is not deleted.

Mr. F. E. James : In that case we have no option but to oppose it. If the words are as I understand them, then the managing agents shall not do these things. What happens in the case of directors wishing to delegate powers to agents ? We cannot possibly accept it.

Mr. Bhulabhai J. Desai : It is a mere assertion.

Mr. M. S. Aney : If the section is worded like that, shall the managing agents have the power to do these things ? Is there any clause debarring them from doing these things. Can he do it with the authority of the directors ?

Mr. Bhulabhai J. Desai : I think my Honourable friend has not understood us, I have admitted that even with the authority of the directors he shall not be able to do it. There is an explanation, that there is no need for such a delegation having regard to the subject matter of the three points. Once the directors decide to issue debentures, to issue capital and to make calls, there is no question of delegating that power.

Sir Cowasji Jehangir : Mr. President, much depends upon whether you retain that word ‘ or ’ or delete it. I understand that the Mover of the amendment desires that the managing agent, with the approval of the directors, shall make calls.

Pandit Govind Ballabh Pant : No. What I am proposing is that the decision with respect to these matters should be taken by the directors themselves. Once a decision is taken by them, the execution of the decision will certainly rest with the managing agents. I do not want the managing agent to possess the right of deciding these things.

Sir Cowasji Jehangir : I am not a lawyer. There are two very eminent lawyers in this Honourable House. According to me, a layman, if the word “ or ” is retained, it will mean that the directors cannot make calls except with the sanction of the shareholders. It will mean that they cannot issue debentures or issue capital. If that is so, I will strongly oppose it.

Mr. Susil Chandra Sen (Government of India : Nominated Official) : I think there is a good deal of confusion in the minds of members about this amendment. My Honourable friend, the Leader of the Opposi-

tion, made the object of the amendment clear. The object of the amendment is to debar the managing agents at all times from exercising three powers, namely, the power of issuing debentures, the power of issuing capital and the power to make calls. The question is whether a case has been made out as to why the directors should be debarred from delegating these powers to the managing agents at all. As regards the first one, there is no trouble, because we are all agreed that the managing agents should not issue debentures and that too on very good grounds, because the issuing of debentures means charging the assets of the company and that is a power which they should not exercise. As regards the other two matters, I venture to submit for the consideration of my Honourable friends that they stand on a different footing and I do not think my friends can place the three matters on the same level. The second matter, namely, the question of issuing capital we have discussed threadbare. We discussed the same question with relation to the powers of the directors. As I said on that occasion, any shareholder who buys a share in a company knows exactly what the capital of the company is to consist of, in what class of shares it may be divided and he always knows that there is power in the directors or in those who have the management to call up the unissued capital to the extent which has been notified in the memorandum. Now, Sir, the question is as to whether this should be limited for exercise only by the directors or whether it may be delegated under the power of delegation by the directors to the managing agents who after all are only agents of the company. There is one aspect which it appears my Honourable friends opposite have not considered. It is this. A delegation in order to be effective must be by the entire board. With all the safeguards which we have now provided about the constitution of the Board, about the attempts to make it independent of the control of the managing agents, why should we suspect that a delegation made unless by the entire board is confident it would not be abused. That is the point which I want my Honourable friends to consider and I think that if the Board unanimously choose to delegate such a power, it can be taken that it has been left to the managing agents without any chance of its being abused. The third matter certainly stands on a much worse footing, if I may be pardoned for saying so. The making of calls is nothing but the enforcement of a liability which has already been incurred by the shareholders. Once he has subscribed for the shares, the shareholder runs the risk of the calls being made on his shares. The question is as to the time when the calls should be made. In the case of a company under the management of a managing agent they have been entrusted with the management, as appears from the very definition he has the entire control of the company and is it so very surprising that the directors, who when they appoint them should be given a free hand to decide if they should leave the question of the enforcement of a liability which has been incurred by the shareholders to the managing agent. I submit, Sir, the third one is the weakest of the lot. On the whole, Sir, I really want my friends opposite to answer and agree that it would really serve no good purpose by insisting on this amendment.

Mr. S. Satyamurti : Sir, I am surprised that my friend, Mr. Susil Sen, after his return from Calcutta, should take up this attitude of not accepting a reasonable amendment like this. I want to deal with the question of delegation. As the article will read, it will only

[Mr. S. Satyamurti.]

mean this that the directors cannot, under any circumstances, delegate this power. What is the delegation my friend is thinking of? It may be in the actual article itself. Although the directors may be there the articles may provide that the managing agent may make calls or issue capital. Then, there is no question of the directors' minds being applied at any time, whereas, if on the other hand, my friend contemplates specific delegation from time to time, as the Leader of the Opposition pointed out, the very act of the delegation is complete for this purpose. There is no need for directors to meet, except for this. Where they will make a further call, they may generally delegate that power to the managing agents, and then they go out of the picture altogether, and the managing agents dominate the show. I think this amendment ought to be accepted.

Then, secondly, as regards the issue of capital or the making of calls, can my friends deny that they are really important matters for financing the whole concern? Why should they not leave it to the directors themselves to decide these questions from time to time? After all, they are not every day occurrences. They occur only once in a way. If they do occur, what is wrong in asking the Directors to decide the whole question? Moreover, Sir, is not the power to issue debentures never to be exercised by the managing agents? I do not see how the Government can consistently object to equally important powers, like the issue of capital or the making of calls, being vested in the directors themselves. Moreover, they have already accepted the position under Amendment No. 10, that so far as the selling or disposing of the undertaking of a company or remitting any debt is concerned, they ought to go to the company. So far as this section is concerned, it will be found that all these powers may be delegated to the managing agents once and for all by the articles. I have not yet heard a single argument as to what business interests will be affected by accepting this amendment.

My friend, the Leader of the European Group, asked a question of the Leader of the Opposition, whether Regulation 71 does not contemplate these things. It does not, but I take the meaning of that question is that, so far as he is concerned, Regulation 71 contemplates these things, and he has no objection to that.....

Mr. F. E. James : No.

Mr. S. Satyamurti : My friend Mr. James says "No". I am talking of the Leader of the European Group, but I think his question was a *bona fide* question, and he asked that question for the purpose of elucidating the matter. The Leader of the Opposition answered that. Therefore, I have yet to hear, except that they are against it, why they ought not to accept this position. I want to put it to the Leader of the Congress-Nationalist Party, my distinguished friend, Mr. Aney, as to why he thinks this power ought not to be vested solely and exclusively in the directors....

Mr. M. S. Aney : I have only tried to explain the meaning of the clause as it stands.

Mr. S. Satyamurti : I am glad that my friend accepts the position, that, so far as these three powers are concerned, they can and may well be vested in the directors alone. Sir, I want the House to look at the question

from a dispassionate point of view. If the power to issue debentures can be exercised only by directors and never by managing agents, even by delegation, I say the case is stronger with regard to the making of calls. These managing agents are not the owners of the company. Supposing they have mismanaged the company, and they want more money, they can ask for it without the shareholders having any voice at all. Is it right, Sir, that the shareholders' representatives should have no voice? I put it to all shareholders here. They should think either of a general or specific delegation. Specific delegation is an unnecessary waste of time, because if the directors meet and decide on the 2nd of October, 1936, to make specific calls, there is no need for delegating their power to somebody else. They can straight away decide it. Similar is the case with regard to the issue of capital. Sir, it seems to me that no business interests will be affected; on the other hand shareholders' interests will be protected by the directors meeting and deciding this fundamental question. I support the amendment, and I hope the House will accept it.

Some Honourable Members : Sir, the question may now be put.

Dr. Ziauddin Ahmad : Sir, I think this amendment appears to be a reasonable one, because the responsibility for the administration of a concern rests with the directors; they are primarily responsible for the good administration of any company. Therefore, it is very fair that they should know when the capital should be increased not only in regard to the issue of debentures but also in regard to the issue of fresh capital. With these words, I support the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“That in clause 42 of the Bill, in the proposed section 87G, after the word ‘or’ the words ‘any capital or make calls or’ be inserted.”

The Assembly divided :

AYES—38.

Abdullah, Mr. H. M.
Aney, Mr. M. S.
Ayyangar, Mr. M. Ananthasayanam.
Bajoria, Babu Baijnath.
Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Venkatachalam.
Das, Mr. B.
Das, Mr. Basanta Kumar.
Das, Pandit Nilakantha.
Datta, Mr. Akhil Chandra.
Desai, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Gadgil, Mr. N. V.
Giri, Mr. V. V.
Govind Das, Seth.
Hans Raj, Raizada.
Hosmani, Mr. S. K.

Jogendra Singh, Sirdar.
Joshi, Mr. N. M.
Kailash Behari Lal, Babu.
Lalechand Navalrai, Mr.
Mudaliar, Mr. C. N. Muthuranga.
Paliwal, Pandit Sri Krishna Dutta.
Pant, Pandit Govind Ballabh.
Parma Nand, Bhai.
Raju, Mr. P. S. Kumaraswami.
Ranga, Prof. N. G.
Saksena, Mr. Mohan Lal.
Satyamurti, Mr. S.
Singh, Mr. Ram Narayan.
Sinha, Mr. Anugrah Narayan.
Sinha, Mr. Satya Narayan.
Som, Mr. Surya Kumar.
Sri Prakasa, Mr.
Varma, Mr. B. B.
Ziauddin Ahmad, Dr.

NOES—51.

Abdul Hamid, Khan Bahadur Sir.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.

Ayyar, Diwan Bahadur R. V. Krishna.
Bajpai, Sir Girja Shankar.
Benjamin, Mr. H. D.
Bhat, Mr. M. D.

NOES—*contd.*

Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Craik, The Honourable Sir Henry.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Dey, Mr. R. N.
 Ghuznavi, Sir Abdul Halim.
 Gidney, Lieut.-Colonel Sir Henry.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Hidayatallah, Sir Ghulam Hussain.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Jehangir, Sir Cowasji.
 Khurshaid Muhammad, Khan Bahadur Shaikh.
 Lal Chand, Captain Rao Bahadur Chaudhri.
 Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Mody, Sir H. P.
 Morgan, Mr. G.

Mukherjee, Rai Bahadur Sir Satya Charan.
 Naydu, Diwan Bahadur B. V. Sri Hari Rao.
 Nind, Mr. W. W.
 Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Rau, Mr. P. B.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sarma, Sri Srinivasa.
 Scott, Mr. J. Ramsay.
 Sen, Mr. Susil Chandra.
 Sharma, Mr. D.
 Singh, Rai Bahadur Shyam Narayan.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Yakub, Sir Muhammad.
 Zafrullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

The Assembly then adjourned for Lunch till Quarter Past Two of the Clock.

The Assembly re-assembled after Lunch at Quarter Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I think we have finished Amendment No. 117. Amendments Nos. 118, 119, 120 and 121 stand in my name. They will stand over for the present till the resumption of the Chair by the Honourable the President.

Sir Cowasji Jehangir : Mr. Deputy President, I beg to move :

“ That in clause 42 of the Bill, the proposed section 87H be omitted.”

This section runs as follows :

“ A managing agent shall not on his own account engage in any business which is of the same nature as the business carried on by a company under his management.”

Sir, whenever an amendment has been suggested in this House, my Honourable friend Mr. Sen, has been pointed out as an authority, and his report has been brought forward as an argument that the House should accept it. I propose to do the same thing. This is an amendment which was not suggested by Mr. Sen in his report, for very good reasons. It was suggested, I believe, by the committee of experts that was appointed by my friend, the Leader of the House, to help him to draft this Bill. Now, Sir, the amendment in short means that a managing agent shall not do the same kind of business as the business of the company of which he is the managing agent. I feel, Sir, that this will cause considerable inconvenience, and, what is more, it will be a hindrance to our industrial expansion, and therefore I suggest its omission. I can give you one or two

instances from my own experience. Take the case of a managing agent who has also some other investments. I will take the instance of a company with which in our part of India we are most familiar, I mean a cotton mill company. A managing agent of a cotton mill lends his own money—it has nothing whatever to do with the company of which he is the managing agent,—on a mortgage of another cotton mill. That cotton mill company is not able to pay off the mortgage, and the next thing that he may have to do is to take possession of that cotton mill. I am not a lawyer, and I do not express any opinion whether under this section he could be a mortgagee in possession. I have consulted some lawyers, and I have been told that there is nothing to prevent him from being a mortgagee in possession. But after that, the next stage is that he will have to buy up the mill. Then he becomes the owner or the proprietor of that mill. There cannot be the slightest doubt that he cannot be the proprietor of a mill while continuing to be the managing agent of a company which runs another mill. Well, Sir, under those circumstances, what is going to happen? I presume, the only alternative for him is to convert the mill which comes into his possession into a limited company, but that cannot be done immediately. Some time must elapse. That is one instance.

Then there are gentlemen who do the business of selling agents; they sell cloth. I know of some cases where these selling agents, very big business men in themselves, are also managing agents of cotton mill companies. Under this clause they cannot be both. Either they give up their business as selling agents, or they give up being managing agents of a cotton mill. The business of a mill company is to manufacture and sell cloth. Well, if there is a person who is a selling agent, *viz.*, who buys and sells cloth, he is also doing the business of a managing agent of a cotton mill. Under these circumstances, I am advised that under this section it may be held that he cannot do both businesses.

Then take an investing company. I am again advised that if a man is the managing agent of an investing company, it will be very difficult for him to be the managing agent of any other company. These are only a few instances which I give from my personal experience in my part of the country. They may be multiplied by others in this House with experience of other parts of India. I believe the same would apply to a jute mill. It will also apply to many other industries.

The object of this Bill is not to hinder the expansion of industry in any way but to so control it as to see that the managing agency system, that has been abused in the past, will not be abused in the future. It is a very tall order, but that is the aim and object of these clauses—not to hinder them in any way, not to hinder the expansion of trade or industry, but to see that industry is carried on in a way beneficial not only to the country itself but to the managing agents themselves and to the shareholders. I venture to suggest to my Honourable friend, the Leader of the House, that this clause is not conducive to fulfilling the principle I have just laid down. I contend that it will be a hindrance to the expansion of industry. It has been said over and over again in this House by all sections that there are comparatively very few men in this continent of India who interest themselves in industries. There are fewer still who can promote new industries: and therefore those who are already interested in industry are

[Sir Cowasji Jehangir.]

more likely to promote other industries than those who have up till now have had no interest in an industry. Now, you will prevent all these persons, already interested in industry, from helping to expand and enlarge the sphere of industry all over the country. Well, Sir, under these circumstances, I will not enlarge very much more upon a good cause, to what appears to me to be a tired House. And may I appeal to the Honourable the Leader of the House (*An Honourable Member* : Appeal to the Leader of the Opposition) ; I will content myself at present with appealing to the Leader of the House and I trust I shall have the sympathy of the Leader of the Opposition in the amendment I have moved. I place it before the House for favourable consideration.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 42 of the Bill, the proposed section 87H be omitted.”

Mr. Bhulabhai J. Desai : Mr. Deputy President, I quite agree that the Honourable Member appealed to another corner of the House. He fully realizes that he wants this omitted in order to meet what he himself described as a single, possible, hard case. (*Sir Cowasji Jehangir* : “ I mentioned two or three.”) Well, so far as I am able to appreciate them, they fall in the same category ; I may be wrong. The case that he mentioned was a case something like this, that a person who is the managing agent of a company happens to have lent himself to another company and, therefore, either as a mortgagee in possession or as a debenture-holder he is—normally he would not do it if he can help it,—in the ordinary language of commerce, landed with this particular mill on his hands : and if legal opinion has any value, I can assure him that the classes of case that he thinks of are not at all hit by this section, but, for fear that they may possibly do so, you are destroying a very salutary provision of the Act. The provision of the Act is.

Sir Cowasji Jehangir : May I interrupt my Honourable friend ? I said that at first he is the mortgagee in possession, and I expressed doubts myself whether it fell within the mischief of this section. Then, after becoming the mortgagee in possession, he has become the owner. That is the next step, he has become the proprietor.

Mr. Bhulabhai J. Desai : My friend only satisfies me and the House that the case is becoming narrower and narrower still, because so long as I resolve his doubt to the stage of being the mortgagee in possession and as such the managing agent, he concedes me grudgingly the possibility that he may not be hit by this but he then says, “ the court may pass a decree ”, and then says he, “ possibly he may be the purchaser and nobody else ”, then “ possibly he may still want to run it on his own ”. Therefore, as you go further and further, you see how less and less are the possibilities for which he wants to make a law. It is therefore not right, for cases of this character which are hardly likely to arise and which can be easily met and of which the instances must be extremely few, to destroy the salutary principle in 87-H. And here I won't even speak for myself, though, generally speaking, my mind, I may honestly confess, works more on what I conceive after due deliberation to be right than in the direction of quoting twenty or thirty or fifty opinions in my favour. But as the custom here stands, I may point out to the House that practically all the Chambers of

Commerce have accepted the principle of 87-H, as it now stands and what does it say ? It only says this that, while you are managing agent of one concern, you may not on your own private account have a competing business, and I do not wish to take much time in order to tell the consequences of this sort of conflict of "interest" and "duty"—generally, as we know, the "interest" is advanced and the "duty" is sacrificed. It is only human that it does so happen and I therefore do ask my friend to consider again whether he would really insist on destroying a good section for saving a possible hard case.

Sir Leslie Hudson : Sir, if I heard my Honourable friend the Leader of the Opposition aright just now, he said that the majority of the Chambers of Commerce were in favour of 87-H. My reading of the opinions sent in after circulation of the Bill is, however, that practically every Chamber of Commerce, Indian as well as European, was definitely against the provisions of 87-H, which were variously described as impracticable and unnecessary. The Select Committee themselves had the greatest difficulty in framing the present sub-section in the Bill and the Select Committee themselves found it extraordinarily difficult to clarify the section, and I contend that the result is still a very unsatisfactory solution. It is vague and ambiguous. The section as framed in the Bill before the House would leave managing agents in the position that a managing agent would contravene these provisions if he happened to carry on for his own gain any business of any description which was similar to that of any part of the company for whom he is managing agent for any part of that business. I contend that the section even now is so vague and ambiguous that it could only lead to controversy and extensive litigation. The term used "they are not of the same nature as" could be interpreted by the courts in such a manner that there would be restraint of trade, and that was definitely not the intention. (Ironical Laughter from the Opposition Benches.) It would be so.....

Mr. Bhulabhai J. Desai : I have never known this theory advanced before, where a competing business is prevented.....

Sir Leslie Hudson : Take certain firms whom my Honourable friend knows as well as I do, where they have businesses which may include the managing agency of a cotton mill and whose business may also include the importation of cotton piecegoods from overseas.

Mr. Bhulabhai J. Desai : That, I think, is wrong.

Sir Leslie Hudson : After all, the trade of this country is not to be entirely, for the present at any rate, enclosed within the very high tariff walls in which it has been surrounded. After all, there must be some business with outside countries and there must be some exchange of trade with outside countries.

Mr. Bhulabhai J. Desai : We are only trying to break the rigours of monopoly.

Sir Leslie Hudson : There is no monopoly about it at all. I still contend that a provision of this sort is going to put a restraint on trade and that in this country or in any other country this is not a public policy. I strongly urge the House to accept the amendment moved by my Honourable friend, Sir Cowasji Jehangir.

Mr. M. S. Aney : I think that the provision as it stands looks no doubt very salutary but I feel one or two doubts and I believe either my Honourable friend, the Leader of the Opposition, or the Leader of the House, will help me in clearing those doubts. First of all, I want to know whether a person who has got certain business already in existence will be debarred under this clause from becoming a managing agent of another concern ?

The Honourable Sir Nripendra Sircar : No.

Mr. Bhulabhai J. Desai : He can be a managing agent of as many concerns as he likes on his own account.

Mr. M. S. Aney : Section 87-H says :

“ A managing agent shall not on his own account engage in any business which is of the same nature as the business carried on by a company under his management.”

Now, he has on his own account a business already in existence. For a similar business a company is started of which he wants to be a managing agent. Now, when business on his own account is already in existence, would the existence of that business come in the way of his becoming a managing agent ?

Mr. Bhulabhai J. Desai : Yes.

Mr. M. S. Aney : Why this clause should not be a bar in the case of other concerns ?

Mr. Bhulabhai J. Desai : It is a bar.

Mr. S. Satyamurti : Sir, I am surprised at the courage of some of these managing agents here, who are trying to take away from this Bill even such a modest provision as is to be found in 87-H. Their appetite seems to grow by what it feeds on. Thanks to the somewhat accommodating nature of the Government, I see the managing agents are at their old game again. After all, what does the section say ? It simply says that a managing agent shall not, on his own account, engage in any business which is of the same nature as the business carried on by a company under his management. We have been told all these days that these managing agents must have their contract respected, their remuneration respected, and they must have at least 20 years because they are people who combine in themselves ability, efficiency, sacrifice and what not, and without them the industrial development of the country will come to a standstill. Now, Sir, this section simply provides that if a managing agent is paid a handsome remuneration by the company for giving all his time, his energy, his talent, and his capacity, he ought not to have a competing call on all these great and enviable qualities of his by another company which he is carrying on on his own account, and which does the same business as the business carried on by the company under his management. My Honourable friend, the Leader of the European Group, is always restrained in his language, but today he has beaten his own record by saying that this section is a ‘ restraint on trade ’. I think somebody has been pulling his leg. I cannot understand that anybody can reasonably say that this section is any restraint on any trade whatever, except the trade of managing agents. Barring that, there is not a single trade which is sought to be covered by this section. Then, my Honourable friend gave an example which I think is conclusive the other way about. Supposing a firm or an individual is a managing agent to a cotton manufacturing concern. Supposing, at the

same time, he carries on on his own account the import of cotton piece-goods. My Honourable friend went into the question of this country having to import articles. I shall not join issue with him on that matter now. Assume, we have got to import cotton piecegoods, is it right, I put it to the Honourable House and also to the Honourable the Leader of the House, that the managing agent should simultaneously seek to manage a company whose business is to manufacture and sell cotton textile goods at the same time import foreign textiles on his own account? What will be his interest, and what is his duty? His duty is to see that the factory or the mill of which he is the managing agent makes the greatest possible profit, sells in all the best markets, and tries to capture as much of the market as possible. On the other hand, all the time on his own account he is engaged in the importation of cotton textiles. Does it require very great imagination to agree with me that that is bound to affect the interests of the company of which he is the managing agent?

Sir Leslie Hudson : No.

Mr. S. Satyamurti : The managing agents can do anything, and nobody will suffer.

Sir H. P. Mody : The managing agents can do no harm.

Mr. S. Satyamurti : I am glad to be told by my Honourable friend that the managing agents can do no harm. The King, the Pope, the Government of India and the Managing Agents can do no wrong. But I think that statement is its own condemnation. It seems to me, being a humble layman, and I am glad I am supported by the Leader of the Opposition in this matter, that, so far as the language of this section goes, it prevents an evil which is obvious on the face of it, and which ought not to be allowed to continue. I, therefore, hope that the Government will not encourage the managing agents by accepting this amendment but will put their foot down so that the managing agents may not go on moving similar amendments in the future.

Mr. Sami Vencatachelam Chetty (Madras : Indian Commerce) : Sir, I quite agree that in matters like this, there is a likelihood of the position of a managing agent being misunderstood. It looks to me quite reasonable to suppose that if a managing agent has got a textile mill under his control and he is also an importer of foreign piecegoods, that the interests of both should apparently conflict. But I am afraid we will be upsetting the trade and the business in several lines of articles if we were to conclude all at once that in all these matters there should necessarily be a conflict of interest and duty. I do not think in all cases it should be considered that there would be conflict of interest and duty. As a matter of fact, businessmen think of starting indigenous manufactures having had experience in the line of imported goods. They originally started as merchants in imported piecegoods, imported paints, imported hardware, imported steel, imported cutlery and all similar goods. Then they began to realise that there was so much of demand and that these articles could possibly be manufactured in this country with the necessary capital and co-operation and also the help from Government by way of protective duties. Thus it is they feel encouraged in the starting of manufacturing industries. But if the prohibitive amendments are accepted, the moment they begin to organize the starting of a factory or an industry in order to compete in the article in which they were originally trading, they have

[Mr. Sami Vencatachelam Chetty.]

got to stop the importation and give the go-bye to their business and speculate upon the possibility of the success of the new venture that they are undertaking. That seems to me a definite set back to the growth of the industries and manufactures in this country. Moreover, I am glad that my Honourable friend, Mr. Satyamurti, has stated the very question of piecegoods trade. But it is in that one trade there can be the least conflict of interest and duty. If I may explain the matter by way of illustration, there may be certain lines, certain varieties of cloth that the mill over which one is the managing agent would manufacture, whereas in regard to other varieties of cloth, you might conveniently import.....

Mr. Bhulabhai J. Desai : That is not competing business.

Mr. Sami Vencatachelam Chetty : I am glad, but according to my Honourable friend, Mr. Satyamurti, it is competing business and he has stated that to be so. He gave that very illustration.

Mr. S. Satyamurti : It may be that the courts will decide.

Sir Cowasji Jehangir : More work for lawyers.

Mr. Sami Vencatachelam Chetty : One has to spend money on lawyers for these things. That seems to me a thorough misunderstanding of the position. Moreover there are numerous cases of commercial firms who are both managing agents of manufactures in this country and also simultaneously commission agents in respect of goods which are imported from outside. Generally in the piecegoods business of which mention has been made by my Honourable friend, Mr. Satyamurti, these importing firms more or less act as indentors for those customers who want to indent goods ; they get the goods for them and pass on. That does not affect, so far as the existing mills are concerned, the interest of those mills. On the other hand in several cases, both businesses, both of the imported and the indigenous manufacture, are going on very amicably and complementary to each other. In regard to the various trade agreements which we are now entering upon with other countries, we make it a necessary condition that Japan may import certain varieties of cloth whereas India must be given the choice of manufacturing certain other varieties without being competed by Japan and in that case my Honourable friend, Prof. Ranga, would very rightly ask for a similar guarantee as regards handloom weavers. Is it suggested that if a managing agent is the managing agent of a manufacturing concern of piecegoods that he should not be allowed to deal with handloom products ? That seems to me a definitely reactionary proposal. As a matter of fact, this matter has been, as has been reminded, thoroughly discussed in the Select Committee and I quite concede that it is very desirable that the managing agent should not embark upon a venture which would directly come into conflict with the concern of which he is the manager. For instance, if he is the managing agent of a textile mill, he ought not to run a textile mill of his own in order that these goods might not come into conflict with the products of the mill of which he is the managing agent. I think all other amendments in respect of this would either give more liberties to the managing agent or unduly restrict the reasonable position which the managing agents are now occupying. For instance, if I may anticipate the amendment which the European Group has given notice of, namely to add ' and is calculated to prejudice ', even that phrase seems to me to cut both ways. It is just

possible that a business might be considered, even though it is not actually prejudicial, to be calculated to prejudice. This will lead to unnecessary litigation. Sir, while opposing the amendment of my Honourable friend, Sir Cowasji Jehangir, I would say that the existing provision be left untouched.

The Honourable Sir Nripendra Sircar : Sir, I think the Leader of the Opposition was contradicted by my Honourable friend, Sir Leslie Hudson, when the Leader asserted that the Chambers were in favour of a provision like section 87-H. It is quite possible that my Honourable friend, Mr. Desai, has put it in a slightly wider form than the opinions justify. But I will leave it to the House to judge what is the opinion of the Chambers from what I am reading. This is what the Bengal Chamber of Commerce says :

“ The new section introduced by the Bill, the new section 87H appearing in clause 35 as drafted apparently prohibits a managing agent from acting for more than one company carrying the same type of business.”

I stop here for a moment. This criticism was directed and rightly directed to the draft as it then appeared which prevented a managing agent from running two companies. Sir, that criticism has now no force. Now, let me proceed :

“ This clause so obviously destroys the existing managing agents contracts and prohibits future contracts and apart from anything else is contrary to the achievement of the greatest economy that the Chamber must strongly oppose it.”

All this is directed to the fact of the managing agent being prevented from running two companies. I would like to draw the attention of the European Group, to what they proceed to state :

“ The Chamber trusts however that the intention is merely to prevent managing agents themselves from competing with a company which they manage, a principle to which the Chamber takes no exception.”

I would ask my Honourable friend, Sir Leslie Hudson, to say whether the Bengal Chamber of Commerce has not approved of the principle of section 87-H as it stands. I shall have some observations to make about improving that section, to which I shall come later on. So, it is obvious that the Bengal Chamber of Commerce is saying that as you have drafted the provision it prevents some managing agents from running two companies ; to that we strongly object, but the Chamber trusts that the intention is to prevent managing agents from competing with a company which they manage, a principle to which the Chamber takes no exception. Therefore that has been approved, the principle underlying this section has been approved by the Bengal Chamber of Commerce. I have got to make some submission later on about the drafting of this section. Now let us take the Bombay Chamber of Commerce. They strongly oppose this section and the opposition as we know was due mainly to the fact that the provision as drafted prevented the managing agent from running two companies. The Chamber says :

“ My Committee strongly opposes this section.”

Then, they proceed to say, why it is not desirable that the managing agent should not run two companies. I need not tire the House with.

[Sir Nripendra Sircar.]

that because that has gone out of the section altogether. Then, it proceeds to say :

“ My committee cannot bring themselves to believe either that it is the intention of Government to introduce legislation of this nature or that Government would seek this very appropriate method of doing it. The intention underlying this clause is presumably to prevent a managing agent diverting to himself the profits which should properly accrue to the company. With this my committee are in sympathy, but they do not feel called upon to suggest a redraft.”

Now, Sir, what does it mean. The Bengal Chamber of Commerce says this is an admirable principle and all that they want is that the managing agent should not be prevented from running two companies. That, Sir, has now gone. We have not suggested that. The Bombay Chamber of Commerce although they would not help us with a redraft they accept the principle that the managing agent should not on his own account make profits from business which competes with the business of which he is the managing agent. Therefore, Sir, I think my Honourable friends of the European Group are rather incorrect in saying that the Chambers have opposed it. It is quite true that they opposed, and vehemently, the part of our provision which no longer appears in the Bill. But, as I have said, I have certain observations to make about the drafting and that is this. As we have drafted it in the Select Committee, it runs like this :

“ A managing agent shall not on his own account engage in any business which is of the same nature as the business carried on by a company under his management.”

Therefore, the only description is that the rival business should not be of the same nature. Obviously this is not a happy draft, and for this reason. To give an illustration, supposing a managing agent has his own business in, let us say, making bricks at Tinnevely in Madras where he supplies bricks to local people who want it ; and supposing a company is being run in Assam and they do exactly the same kind of business, namely, making bricks. Obviously this will be hit by this section because their business is of the same nature. That is not our intention. The intention of the Select Committee really was,—at any rate I speak for myself,—that managing agents should not on their own account start a business or be engaged in a business which may be a source of danger to the business managed by them, by reason of competition. I would therefore suggest to the House, in spite of what my Honourable friend, Mr. Chetty, said, that they should not agree to the complete deletion of 87H, but that they would favourably consider amendment No. 125 when it comes on later to which I will draw the attention of the House. It says :

“ That in clause 42 of the Bill, in the proposed section 87H, after the words ‘ which is of the same nature ’ the words ‘ and is calculated to prejudice ’ be inserted.”

Possibly No. 126 would be still more favourable to managing agents.

I should like to hear what is the fear of the managing agents if as a matter of fact they are prevented from on their own account running a business which will directly compete with the business of which they are managing agents. So far as the illustrations which have been given by my Honourable friend, Sir Cowasji Jehangir, are concerned, I do not think that any of them will be touched by this section if this precaution is added. And I do not think anybody will dispute that as a matter of

fact it is not the right principle that the agent should be allowed to compete with the business which he is managing with his own private business. Therefore my position is this, that I hope I should not be asked to make up my mind as to whether I should either oppose or support 87H as it stands. My attitude is that the principle of 87H ought to stand but the language should be improved and I therefore suggest to my Honourable friends here.....

Mr. M. A. Jinnah : With the addition of the words "calculated to prejudice" ? That would lead to all sorts of difficulties.

The Honourable Sir Nripendra Sircar : Yes, I quite agree that in disputed cases the court has got to decide it. But as it stands it is much wider. All that has got to be proved is that the two businesses are of the same nature. We have not used the words "competing business" at all, and one business may not be calculated to prejudice the other. It may not be competing with the other, but yet that is roped in by the language of 87H. That is my fear. I quite admit my Honourable friend, Mr. Jinnah's point that even if you put the words "calculated to prejudice", that does not remove the difficulties, and if such a situation arises that the matter has to go to court, the court has to decide on the evidence, on such evidence as it has, having regard to the locality in which the business is carried on, the nature of the business, the quantity of goods they supply, possibly the nature of the consumers, and so on. All those have got to be taken into consideration. But if some other way could be found which would be even an improvement on amendment No. 125, I need hardly say that I shall still more gladly accept it. But my point now is that 87H as it stands should not be supported and it should be limited by the words appearing in amendment No. 125 or some other more suitable form of words which can be suggested from any part of the House. That is my position.

Pandit Govind Ballabh Pant : Sir, I have always held that there should be no limit to the number of directorships that a man can hold, I am also of the opinion that there should be no limit to the number of managing agencies that any competent and efficient firm may hold. But at the same time I believe that it is against public policy to allow any man to engage in a competing business on his own account, when simultaneously he has to run another business as an agent on behalf of a principal. That would be against the very elementary canons of business morality. Now, I may inform Honourable Members of this House that the clause that is under discussion in substance agrees with the provisions of many of the articles of respectable companies like the Tata Steel Company. In the agreement of Messrs. Tata and Sons with the Tata Steel Company there is a provision to the effect that the managing agents will not engage in any business competing with the business of the principal concern. And I hope Sir Homi Mody will bear me out that even in a respectable concern like that, run by persons of supreme reliability and dependability as Messrs. Tata and Sons it is considered desirable and necessary that the agreement should contain a provision to the effect that the managing agents will not engage in business competing with the business which they have to conduct in their capacity of managing agents. That seems to me to be a conclusive argument as to why the law should make a provision of this type. Now, I will remind Honourable Mem-

3 P.M.

[Pandit Govind Ballabh Pant.]

bers of the language of the original clause in the Bill as it was introduced. Section 87H in the original Bill ran as follows :

“ A managing agent shall not, whether directly or as managing agent for another person, engage in any business which is of the same nature as, or which is of such a nature that, it directly competes with the business carried on by a company under the management of such managing agent.”

Under it, the managing agent of one concern was debarred from acting as managing agent on behalf of another concern where both were run on the same lines and both worked towards the same end. That was really a provision which went beyond the requirements of the case and might have injured the growth and expansion of industry. This has been now restricted to this extent that a managing agent is debarred from engaging in business on his own account and for his own personal benefit, where such business is of the same nature as the business carried on by a company under his management. If the present clause is wider than the original clause, I think the responsibility rests on Sir Homi Mody and other representatives of industry in the Select Committee. They wanted these words to be omitted, “ which competes with the business carried on by a company ” and it was with a view to accommodate them that these words were deleted. I personally think that they were mistaken for by omitting those words they have enlarged the scope of restriction, and I suggest that those words be again restored. The clause will then run thus :

“ Which is of the same nature as and directly competes with the business carried on by a company under his management.”

This language is, I think, better and clearer than the words “ calculated to prejudice ” which is a very vague expression and may be interpreted in various ways by various people. I quite agree that if a brick kiln is started in Bombay and another in Calcutta by the same firm of managing agents, there can in the ordinary course be no competition between the two.

Sir Cowasji Jehangir : Why not ?

Pandit Govind Ballabh Pant : Ordinarily, bricks if carried from Bombay to Calcutta will have to pay so much in the form of freight that it will perhaps exceed the local price of the bricks themselves.....

Sir Cowasji Jehangir : Why do you take bricks ? Take a cotton mill. If you have a mill in Bombay and another in Calcutta, they will compete ?

Pandit Govind Ballabh Pant : If they do, then the man must not do it.....

Sir Cowasji Jehangir : That is exactly the point.

Pandit Govind Ballabh Pant : But my point is this : that if he can carry on business without injuring the interests of the company which he manages as a managing agent, I would not stand in his way. If there is a real conflict, then I would certainly like such contracts and such sort of employment to be barred. But I am prepared to clarify the position and to introduce necessary words to guard against the possibility of managing agents being prevented from engaging in business which does not really compete with their work as managing agents. I suggest that the clause should be retained.....

Sir Cowasji Jehangir : May I ask what the Honourable Member means by "compete"? There are two mills in Bombay under the same managing agent: he is the proprietor of one and the managing agent of the other. They are not really competing in the sense in which my Honourable friend uses the word.

Pandit Govind Ballabh Pant : It depends on the counts, on the quality and the nature of the cloth manufactured by them. If one produced only cloth of 10 counts or 12 counts, and the other cloth of between 50 and 60 counts, there is not much competition: but if both turn out cloth of the same quality, say, between 10 and 20 counts there is obviously competition between the two: and if for example, the season is slack and the stocks are lying idle my own apprehension is—and if I were a businessman—which luckily or unluckily I am not—I would be inclined to dispose of my own stock first in a slack season, before selling the goods that I held as an agent. I need not elaborate my argument. This is obvious enough. I am trying in fact to help the House in arriving at some suitable form which, while preserving the principle of this clause, would not at the same time tend to restrict unduly the managing agent in the pursuit of new fields. I do not want to stand in the way of his expanding his business, if it does not in reality conflict with his duty as an agent.

Mr. M. S. Anay : There is already an amendment to that effect under No. 126 by Mr. Satyamurti: it is precisely in the terms in which my Honourable friend, Pandit Govind Ballabh Pant, has suggested.

Mr. T. Chapman-Mortimer : Sir, I rise to support the amendment of my Honourable friend, Sir Cowasji Jehangir. We have heard the Honourable the Law Member quoting the Bengal Chamber of Commerce, and if I may, I should just like to repeat what the Chamber have said: They said that they trust that "the intention is merely to prevent managing agents themselves from competing with the company". Now, as I understand it, the law of agency, quoted by my Honourable friend, Mr. Govind Ballabh Pant, makes it impossible for an agent to do anything which would deprive his principal of commission legitimately due to him; and in these circumstances the clause as it now stands simply is putting into some vague language what in fact is the law, namely, that an agent cannot take secret commission or any other kind of commission which should legitimately go to his principal: but as the clause is now worded—and that is what we have got to consider in this House—it is so vague that it may rope in all sorts of people who do perfectly legitimate business on their own behalf without in any way meaning to hurt the company under their management. It has been suggested that if the words "calculated to prejudice" are introduced or if the words "or which is of such a nature that it directly competes with" are inserted, this clause as it stands would be improved. I submit that that will not be the case. It is only improvement to this extent, that it will enable people to fight the case out in court. You cannot conduct business on those lines: if you have got to go to court, or still more, if you are liable to be taken to court for everything you do, it becomes practically impossible to do any reasonable business at all; because quite apart from the fact that you have to waste a great deal of money on legal expenses and lawyers' fees, you have also to waste a great deal of time which might seriously jeopardise the welfare of the company. What we have now to consider is whether this

[Mr. T. Chapman-Mortimer.]

clause as it is worded or even as amended by my Honourable friend, Mr. Satyamurti's amendment, will in effect be of any use at all. I submit it will not ; for this reason that if my Honourable friends will look at the clause they will see it says : "*A managing agent shall not on his own account engage in any business which is of the same nature as the business carried on by a company under his management*". Now, I have before me a memorandum of a newly started company. Obviously if a matter of this kind is taken to court, the court will say "What is the business of the company?" and the first thing they will do is to find out from the memorandum of association and the articles what the business of the company purports to be. In this particular memorandum that I have before me, among other things the business of the company is as follows :

"To carry on the business of insurance of every description...."

I may say that the company is a company that is called the Safe Deposit Company, but it contains in this memorandum a clause which reads as above. It contains another clause :

"To acquire and undertake the whole or *any part* of the business, property and liabilities of *any person* or company carrying on *any business* which the company is authorised to carry on or possessed of property suitable for the purposes of the company."

That is a very wide clause. It appears in this memorandum. If the managing agent of that company does any of these things, that is to say, undertakes the whole or *any part* of *any business* of *any person* or company carrying on *any business*—I submit that these words are so wide and this clause as it is now framed is so wide, that if it is going to mean anything, ordinary business will be so surrounded by hampering restrictions from beginning to end that you cannot conduct business in any shape or form on these lines. (*An Honourable Member* : "Oh.") My friend says "Oh" : probably he is not a business man—he is probably a lawyer ! Take again another clause of this memorandum—"sell, let, exchange or otherwise, etc., etc., shares, debentures or securities". What is to be the position of the managing agent of a company in such a case or in the case of a company which is solely, for example, an investment company ? If he buys Government paper, if he buys any shares, it may some day be brought up against him by some member of that company that the managing agent has been carrying on business against the interests of his own company. As the clause now stands, he does not have even need to say that. If he merely says that the managing agent has been carrying on business "*on his own account*", that will do under the clause as it now stands. I submit that sort of thing is hopelessly bad law. We are all agreed in principle that it is a thoroughly bad thing for any managing agent, or for that matter, any director, or any managing director, or any member of a company, to carry on business which is dishonest in that he is possibly buying jute or cotton and then when things go wrong, debiting the company, and when they go right, appropriating the profits to himself. We all know that under the law of agency he can be prosecuted today without this proposed section. We also know that in any decently run company, whether it is run by directors or by a managing agent, any man who does a thing like that will immediately render himself liable

to instant dismissal. I submit that the clause as it stands, or even as amended, as suggested by my Honourable friend, the Law Member, or by my Honourable friend, Mr. Satyamurti, will still be so vague and so wide as to be definitely one which will hamper trade and be in restraint of trade as my Honourable friends have said. I support the amendment of my Honourable friend, Sir Cowasji Jehangir.

Mr. M. Ananthasayanam Ayyangar : If provision in a similar statute with respect to a similar transaction can be of any use, I can suggest that a reference may be made to a similar provision in the Indian Contract Act under section 259. No doubt, there is a separate Partnership Act which has come into existence, but the thing is the same. Section 259 runs as follows :

“ If a partner, without the knowledge and consent of the other partners, carries on any business, competing or interfering with that of the firm, he must account to the firm for all profits made in such business, and must make compensation to the firm for any loss occasioned thereby.”

Each partner is an agent of the other partners and all partners are agents of the firm. Therefore, the position of managing agent with respect to the company is practically on all fours with the relationship of one partner to the other partners or of all the partners jointly and severally to the firm. Therefore, if, instead of the word “ prejudice”, the words “ any business, competing or interfering ” are used, the difficulty will be solved. If those words had given rise to any difficulty, the same difficulty may also be continued in this Bill. But so far as I am aware, it has not led to any difficulty. In cases of this kind the court has also to go into this matter whenever a dispute arises and find out whether in respect of a particular transaction or a series of transactions the business was competing or interfering. So far as human ingenuity allows, we can try to be absolutely specific with respect to the language used, but having regard to the nature of the transaction some amount of doubt and difficulty always arises. Therefore, I would suggest that the words “ competing or interfering with ” may be used. I would also refer to section 27 of the Contract Act. This is an answer to the very valuable remarks that have come from the lips of the Honourable Members of the European Group in respect of the restraint of trade. The section says :

“ Every agreement, by which any one is restrained from exercising a lawful profession, trade, or business of any kind, is to that extent void.”

But there are exceptions. One is :

“ Partners may agree that some one or all of them will not carry on any business other than that of the partnership during the continuance of the partnership.”

Another one is :

“ Partners may, upon or in anticipation of a dissolution of the partnership, agree that some or all of them will not carry on a business similar to that of the partnership....”

The language of section 259 is “ competes or interferes with such business”, that is, the business of the partnership. Either the one or the other may be used. To give an unrestricted right to the managing agent to carry on business on his own account will lead to a lot of complication. The general law relating to agency ought not to be abrogated by this. If the company wants to claim damages on account of the competing business the general law permits a suit for compensation

[Mr. M. Ananthasayanam Ayyangar.]
 or damages. We should not give scope for such competition lest it might involve the company in a lot of litigation. Therefore, I suggest that the words "competing or interfering" may be used. Then it will read like this : "carries on any business competing or interfering with that of the firm".

The Honourable Sir Nripendra Sircar : May I put a question to my Honourable friend if he will allow me ? Having regard to what he has said, is there any objection to his taking amendment No. 126, provided the word "or" is changed into "and" ? In that case two conditions have to be complied with, that is, the business must be of the same nature and it must also directly compete. Has my Honourable friend any objection to that ?

Some Honourable Members : No.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Before putting the question, that is, amendment No. 122, I want to state that some suggestions have been made to remove controversy. One is that the present clause 87H may be retained subject to such amendments as are suggested in amendment No. 126.

Mr. M. A. Jinnah : What is to happen to amendment No. 122 ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : I am explaining the position. One suggestion is that the present clause 87H may be retained subject to some such amendments as are suggested in Nos. 125 or 126, or as suggested by Pandit Govind Ballabh Pant with the words "as directly competes with". There is another suggestion which has been made by Mr. Ayyangar. In view of all these suggestions, what is the position of the Honourable the Mover ? Does he want to withdraw this amendment No. 122 or does he want to press it ?

Sir Cowasji Jehangir : I will certainly withdraw my amendment on the understanding that the words "competing and interfering" are inserted in the section.

Mr. Deputy President (Mr. Akhil Chandra Datta) : There can be no understanding with the Chair.

Sir Cowasji Jehangir : Then, I ask for permission to withdraw.

The amendment was, by leave of the Assembly, withdrawn.

Mr. S. Satyamurti : With your permission, I should like to move my amendment in a different form. I should like to move it in this form :

"That in clause 42 of the Bill, in the proposed section 87H, after the words 'same nature as' the words 'and directly competes with' be inserted."

This is a formal amendment. I think the House is in a favourable mood to accept the amendment. Sir, I move.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, in the proposed section 87H, after the words 'same nature as' the words 'and directly competes with' be inserted."

The motion was adopted.

Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, I beg to move :

“ That in clause 42 of the Bill, in the proposed section 87H, before the words ‘ A managing agent ’ the words ‘ Unless otherwise determined by the company in general meeting ’ be inserted.”

There is no doubt that this is a very salutary proposal and as the debate has gone on it has been shown that serious complications might be created. An interpretation of the clause may have to be sought in a Court of law. To avoid such possibility and save costs, I think it is much better that a provision like this should be inserted. Suppose a case has got to be decided and the company or the managing agent take the view that the sanction of the company in general meeting should be obtained, that will obviate all the difficulties. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in the proposed section 87H, before the words ‘ A managing agent ’ the words ‘ Unless otherwise determined by the company in general meeting ’ be inserted.”

Sir Leslie Hudson : Sir, I support this amendment. After all this Bill is not supposed to be entirely prohibitory and it is in accordance with the general underlying sentiment of the Bill that the shareholders should have something to say on important matters. I think that in this case the shareholders should have a say in the matter.

The Honourable Sir Nripendra Sircar : I oppose this amendment. After all, we know some managing agents want to make out that they have been crushed altogether, but after all, what has been done. The managing agent has been asked to observe the ordinary rules of honesty as embodied in the Contract Act, namely, that he should not as agent put himself in a position where his interest of making profits on his own account would be in conflict with the interests of the company which he is managing. We have put in two safeguards, first of all, that business must be of the same nature and now that Mr. Satyamurti's amendment has been accepted it must be not only of the same nature but it must be directly competing with the other business. If any shareholder has the hardihood to say that a case has happened which complies with both the conditions, it will be for him to make it out and ask for damages or injunction. If we accept this amendment, it will be really doing away with the whole thing. I oppose this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in the proposed section 87H, before the words ‘ A managing agent ’ the words ‘ Unless otherwise determined by the company in general meeting ’ be inserted.”

The motion was negatived.

MESSAGE FROM HIS EXCELLENCY THE VICEROY AND GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I have received an Order from His Excellency the Viceroy and Governor General with respect to the motion for the adjournment of the House sought to be moved by Mr. Mohan Lal Saksena this morning. The Order runs as follows :

“ In exercise of the power vested in me by sub-rule (2) of rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. Mohan Lal Saksena to move the adjournment of the House for the purpose of considering ‘ the failure of the Government of India to secure the secrecy of vote in the rural areas of the United Provinces as recommended by the Legislative Assembly ’ on the ground that the motion relates to a matter which is not primarily the concern of the Governor General in Council.

(Sd.) LINLITHGOW,

Viceroy and Governor General.”

SIMLA,

The 2nd October, 1936.

(Hear, hear.)

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : May I just put a question, Sir ? Is not the Federal Legislative Assembly a primary concern of the Government of India ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot answer that question.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : There are several amendments which stood over, in the name of Mr. Akhil Chandra Datta. I suppose they will be moved now ?

Mr. Akhil Chandra Datta : Yes, Sir, I beg to move :

“ That in clause 42 of the Bill, in the proposed section 87-G, after the words ‘ a power to ’ where they occur for the second time the words ‘ lend or borrow with or without security or incur expenditure on capital account or ’ be inserted.”

If this amendment is accepted, the second portion of section 87-G. will read like this :

“ A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or, except with the authority of the directors, and within the limits fixed by them, a power to lend or borrow with or without security or incur expenditure on capital account or invest the funds of the company, and any delegation of any such power by a company to a managing agent shall be void.”

Sir, the point of this amendment is this. Section 87-G has laid down that the managing agents will not exercise these two powers, *viz.*, issuing debentures and the investment of the funds of the company with-

out the authority of the directors and except within the limits fixed by them, and I propose to add that certain other powers should not be exercised by the managing agents without the authority of the directors, *viz.*, lending money, borrowing money and incurring expenditure on capital account; these are very large powers, the power of incurring of expenditure on capital account, and also borrowing money. As a matter of fact, in the case of almost all respectable companies, these are powers which are given under the articles of association to the directors. Therefore, Sir, I propose that these three powers should also be included in 87-G.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, in the proposed section 87G, after the words ‘ a power to ’ where they occur for the second time the words ‘ lend or borrow with or without security or incur expenditure on capital account or ’ be inserted.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. What my Honourable friend proposes to do is that the statute should provide that the managing agent can do these four or five things. I do not see any point in that. By the very definition laid down, the managing agent can do whatever is necessary for managing the business subject to the rights of the directors. Why pick out these four or five items and say that the managing agent can do one, two, three, four ? I think my Honourable friend might as well have proceeded to say, “ he can take his luncheon at one o'clock ”. Sir, I see no object in this.

Mr. Akhil Chandra Datta : At your cost.

The Honourable Sir Nripendra Sircar : Now, Sir, I do not want to take the time of the House. I cannot really understand the point : when there must be a managing agency agreement, and when how far the management is going to be delegated to the managing agent must be the subject-matter of that agreement, I cannot see why four items of business should be picked out and put in the statute and made statutory. I oppose this amendment.

Mr. Akhil Chandra Datta : Sir, may I ask one question ? In that view of the matter, is it at all necessary to have 87-G ? That argument applies not only to the proposed three powers but also to the power of issuing debentures, and the power of investing funds ?

The Honourable Sir Nripendra Sircar : My Honourable friend will notice that 87-G takes away the power of managing agents to do certain things : what my friend is providing for is that out of twenty-five things he can do, he picks out four and says, “ the managing agent can do these things ”.

Mr. N. C. Chunder (Calcutta : Non-Muhammadan Urban) : I think my friend the Honourable the Law Member is under a misapprehension, Sir. He thinks it is 119 which Mr. Datta has proposed, but it was 118.

The Honourable Sir Nripendra Sircar : I thought he read out No. 119 ? (Laughter.)

Mr. Akhil Chandra Datta : May I then know from the Honourable Member what is his position regarding 118 ?

The Honourable Sir Nripendra Sircar : I take the same attitude of hostility.

Mr. M. Ananthasayanam Ayyangar : Sir, there cannot be the same hostile attitude even with respect to this amendment, and there is no need to persist when a mistake has been made. I would say, "except with the authority of the directors, and within the limits fixed by them, a power to invest the funds of the company", etc., because when no funds of a company are invested, then that company collapses to that extent, and there is a loss. You are imposing a further obligation on the company. The same reason which holds good in the case of imposing a limit in the case of investments also holds good with equal force to the case of borrowing. I would therefore strongly support this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, in the proposed section 87G, after the words 'a power to' where they occur for the second time the words 'lend or borrow with or without security or incur expenditure on capital account or' be inserted."

The motion was negatived.

Mr. Akhil Chandra Datta : Sir, I beg to move :

"That in clause 42 of the Bill, after the proposed section 87G, the following section be inserted :

'87GGG. A managing agent may, subject to the control of the directors, exercise in respect of any company of which he is a managing agent the following powers, namely :

- (i) to allot or dispose of any shares of the company ;
- (ii) to make calls ;
- (iii) to refuse transfers of shares ;
- (iv) to incur expenditure on capital account ;
- (v) to lend or borrow money with or without security ;
- (vi) to dispose of the whole or part of the undertaking of the company ;
- (vii) to appoint, remove or suspend any officers, servants or agents of the company ;
- (viii) to institute, defend, compound, refer to arbitration or abandon any legal proceedings or claims by or against the company or its officer or otherwise concerning the affairs of the company ;
- (ix) to enter into contracts for sale or purchase or other transactions on behalf of the company ;
- (x) to effect insurance in respect of the property of the company '."

Now, Sir, the object of this amendment is not to prevent the managing agents from exercising these various powers. I rather propose to give them powers to do these things but only subject to the control of the directors. Now, there are two words in the definition of "managing agent" : "control" and "direction". I am anxious to point out that I have omitted the word "direction", and I am retaining only the word "control", and my main object is this : In the first instance, the managing agents are debarred from exercising these powers but all the same they will be subject to the control of the directors. If the managing agents use their powers, then the directors will have the power to interfere. But, in the first instance, the managing agents have these

powers. These are very important matters in connection with the management of a company and it is only desirable that the directors should have control over the managing agents in these matters. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after the proposed section 87G, the following section be inserted :

‘ 87GGG. A managing agent may, subject to the control of the directors, exercise in respect of any company of which he is a managing agent the following powers, namely :

- (i) to allot or dispose of any shares of the company ;
- (ii) to make calls ;
- (iii) to refuse transfers of shares ;
- (iv) to incur expenditure on capital account ;
- (v) to lend or borrow money with or without security ;
- (vi) to dispose of the whole or part of the undertaking of the company ;
- (vii) to appoint, remove or suspend any officers, servants or agents of the company ;
- (viii) to institute, defend, compound, refer to arbitration or abandon any legal proceedings or claims by or against the company or its officer or otherwise concerning the affairs of the company ;
- (ix) to enter into contracts for sale or purchase or other transactions on behalf of the company ;
- (x) to effect insurance in respect of the property of the company .’

The Honourable Sir Nripendra Sircar : Sir, for reasons already stated, possibly a little in advance of the proper time, I oppose this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after the proposed section 87G, the following section be inserted :

‘ 87GGG. A managing agent may, subject to the control of the directors, exercise in respect of any company of which he is a managing agent the following powers, namely :

- (i) to allot or dispose of any shares of the company ;
- (ii) to make calls ;
- (iii) to refuse transfers of shares ;
- (iv) to incur expenditure on capital account ;
- (v) to lend or borrow money with or without security ;
- (vi) to dispose of the whole or part of the undertaking of the company ;
- (vii) to appoint, remove or suspend any officers, servants or agents of the company ;
- (viii) to institute, defend, compound, refer to arbitration or abandon any legal proceedings or claims by or against the company or its officer or otherwise concerning the affairs of the company ;
- (ix) to enter into contracts for sale or purchase or other transactions on behalf of the company ;
- (x) to effect insurance in respect of the property of the company .’

The motion was negatived.

Mr. Akhil Chandra Datta : Sir, I move :

“ That in clause 42 of the Bill, after the proposed section 87G, the following section be added :

‘ 87GGGG. A managing agent shall not, except with the previous approval of the Directors, exercise a power to sub-delegate the powers, authorities or discretions vested in him in relation to the management of the affairs of any company of which he is a managing agent ’.”

Sir, there are provisions in the various companies that the managing agents will have the power to sub-delegate their functions. As a matter of ordinary principle of jurisprudence, the managing agent has no right to delegate. Still, as a matter of fact, there are many agreements in which that power is given to the managing agents and is exercised by them. I may point out to the House that it is a very modest claim because my amendment says that the managing agents may sub-delegate the powers but not except with the previous approval of the directors. Therefore, I think there will be no objection to its acceptance. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after the proposed section 87G, the following section be added :

‘ 87GGGG. A managing agent shall not, except with the previous approval of the Directors, exercise a power to sub-delegate the powers, authorities or discretions vested in him in relation to the management of the affairs of any company of which he is a managing agent ’.”

Mr. Susil Chandra Sen : I am afraid, Sir, I must oppose this amendment moved by my Honourable friend, Mr. Akhil Chandra Datta.

Sir Cowasji Jehangir : Why ?

Mr. Susil Chandra Sen : My Honourable friend, Sir Cowasji Jehangir, says “ Why ”. I thought he could just wait for two minutes because I was going to give my reasons. The position is this. We have now in the Act defined a managing agent as a person who has the control of the whole business of the company subject to the directions of the directors as contained in the agreement. In the first place, before the managing agent is appointed, he will have to get the directors to specifically fix upon the powers which they delegate to him. If the directors want to provide against sub-delegation, there is nothing to prevent them from doing so. But supposing they do not do so and the managing agent delegates it he does so at his own risk. The sub-delegation does not take away his liability to any extent. He remains liable to the company all the same and the company is not a loser at all. I therefore do not see the necessity of this amendment at all. If the managing agent remains liable, he can delegate, he can do what he likes, but *qua* the company his liability is there and he cannot escape it. Therefore, I submit there is no necessity for this amendment at all.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after the proposed section 87G, the following section be added :

‘ 87GGGG. A managing agent shall not, except with the previous approval of the Directors, exercise a power to sub-delegate the powers, authorities or discretions vested in him in relation to the management of the affairs of any company of which he is a managing agent ’.”

The motion was negatived.

Mr. Susil Chandra Sen : Sir, I move :

“ That in clause 42 of the Bill, to the proposed section 87H, the words ‘ or by a company which is a subsidiary company of a company under his management ’ be added at the end.”

Sir, the reasons are obvious. The managing agent is already debarred by the amendment which has been carried in this House today from carrying on a business on his own account which competes with the business of the company of which he is the managing agent. Now, this amendment is only an extension. It debars him from carrying on a competing business of the type which is carried on by subsidiary companies, the main company being the holding company. Sir, as we have been told on many occasions, the real use of the subsidiary company is to carry on a business which cannot be conveniently carried on by the parent company. Therefore, it stands to reason that if a managing agent has been debarred from carrying on a business which is of a competitive nature with the holding company, that he should equally be debarred from carrying on a business of the same nature and which competes with the business of the subsidiary company. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, to the proposed section 87H, the words ‘ or by a company which is a subsidiary company of a company under his management ’ be added at the end.”

Pandit Govind Ballabh Pant : Sir, I have just one word to say. If the Honourable the Law Member will look at my amendment No. 128, he will find that there is no difference in substance between what my Honourable friend, Mr. Sen, has proposed and what I had myself put down in this amendment. But I feel that my words will take less space, as they are only eight in number as against 15 or 16 of Mr. Sen. So, I suggest that in place of the language used by Mr. Sen, the language used in my amendment may be adopted.

Mr. Susil Chandra Sen : In view of what has been said by my Honourable friend and seeing that we are pressed for space, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Pandit Govind Ballabh Pant : Sir, I beg to move :

“ That in clause 42 of the Bill, in the proposed section 87H, after the word ‘ management ’, the words ‘ or by a subsidiary company of such company ’ be inserted.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, in the proposed section 87H, after the word ‘ management ’, the words ‘ or by a subsidiary company of such company ’ be inserted.”

The motion was adopted.

Mr. T. S. Avinashilingam Chettiar : May I point out, Sir, that amendment No. 52 in the Revised Final List has been left over at the suggestion of the Honourable the Law Member until we had come up to section 87H. Now, that we have disposed of section 87H, I request I may be permitted to move my amendment No. 52.

Mr. President (The Honourable Sir Abdur Rahim) : Are there no other amendments to section 87H ?

Mr. T. S. Avinashilingam Chettiar : The rest of the amendments relate to sections after 87H.

Mr. President (The Honourable Sir Abdur Rahim) : In that case you can move.

Mr. T. S. Avinashilingam Chettiar : Sir, I beg to move :

“ That in clause 42 of the Bill, for clause (a) of the proposed section 87B, the following be substituted :

‘ (a) the office of a managing agent shall be vacated if—

(1) he is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ; for the purpose of this sub-clause where the managing agent is a firm or company an offence committed by a member of such firm or a director or an officer holding a general power of attorney from such company shall be deemed to be an offence committed by such firm or company ;

(2) he is adjudged insolvent ;

(3) he acts in contravention of the provisions contained in section 87H or 87J ’.”

An Honourable Member : We have not yet come to section 87J.

Mr. T. S. Avinashilingam Chettiar : It is the amended section of Sir H. P. Mody, section 87HH. I will not argue about the provisions of sub-clauses (2) and (3) of this amendment, for I see even when I made some observations over the general consideration of the Bill, the Honourable the Law Member said that the Government are tabling an amendment to the effect that if a managing agent is adjudged an insolvent, he will vacate his managing agency. I also see that amendment No. 66 is tabled by my Honourable friend, Mr. Sen, and it reads as follows :

“ That in clause 42 of the Bill, after the proposed section 87B, the following new section be inserted :

‘ 87BB. The office of a managing agent shall be vacated if—

(a) being an individual or a firm—he or the firm is adjudicated an insolvent ;

(b) being a private limited company—it is wound up except for purposes of a reconstruction ;

(c) he acts in contravention of section 87H ’.”

Therefore, I presume that the Government still stand by that amendment that they have tabled and I hope they will accept sub-clauses (2) and (3) of my amendment. The third sub-clause includes section 87HH.

Sir H. P. Mody : My amendment is not section 87HH. It was
4 P.M. originally so, but it is now section 87D(5).

Mr. T. S. Avinashilingam Chettiar : Then I will amend my amendment by inserting section 87D(5) for section 87J. By sub-clause (1) of my amendment, I want that a managing agent should vacate office if he commits a non-bailable offence. Section 87B deals with vacation of office by managing agents and it reads as follows :

“ A company may, by resolution passed at a general meeting of which notice has been given to the managing agent in the same manner as to members of the company, remove a managing agent if he is convicted of an offence in relation to the affairs....”

The rest of the words, I have taken from the Bill as it is altered by the Select Committee. The only thing that I omitted is that a resolution will be necessary to make them eligible. My reasons are these. In most of the companies managing agents have above 51 per cent. of the shares and it will be practically impossible to pass any resolution even though they commit the worst faults and frauds to make them vacate office. Supposing in many companies they have 40 per cent. of the shares, they are bound to have some shareholders or directors, some of their relatives and friends who will have ten per cent. more shares. In any case, in most cases, it will be impossible to pass a resolution, whatever be the offence that they have committed, asking them to vacate office. So, I have tabled my amendment. The effect of my amendment is that they must vacate office, if they commit a non-bailable offence. The reason why I ask them to vacate office automatically is that there is a conviction by the Court for a non-bailable offence. This has a long history behind it, which I mentioned on previous occasions. We do not want them to vacate office for any small offence, but only for non-bailable offence and in the case of a non-bailable offence, I believe there should not be any resolution necessary to make them vacate office. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, for clause (a) of the proposed section 87B, the following be substituted :

‘ (a) the office of a managing agent shall be vacated if—

(1) he is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable ; for the purpose of this sub-clause where the managing agent is a firm or company an offence committed by a member of such firm or a director or an officer holding a general power of attorney from such company shall be deemed to be an offence committed by such firm or company ;

(2) he is adjudged insolvent ;

(3) he acts in contravention of the provisions contained in section 87H or 87D(5) ”.

The Honourable Sir Nripendra Sircar : Sir, having regard to the amendments which have already been accepted by the House, it is not possible for anybody to support either No. 1 or No. 3, for this reason. Paragraph (1) will be inconsistent with amendment No. 58 which has been accepted by the House which is that a managing agent shall not be liable to removal under the provisions hereof if the offending partner, director or officer as aforesaid be expelled or dismissed by the managing agent within 30 days. So this will not fit in with that at all. The House has already said that the managing agent will not vacate his office if the offending partner is removed within 30 days. Then, with regard to (3), I am not raising a point of order but I am pointing out to my Honourable friend that 87H has now been amended and under 87H as it stands anybody who complains has got to show that the one business was directly competing with the other and was of the same nature. Is that going to be decided by anybody else except the Courts when there is a dispute ? Under this scheme shareholders have got to say, “ you have been competing with us, you must go ”. And the Honourable Member has not even thought a resolution of the shareholders as necessary, but that

[Sir Nripendra Sircar.]

it shall be vacated if he acts in contravention of 87H. How is that going to be decided? Who is going to settle it, and who is going to dismiss him? With going to the Courts this is a complete misfit.

Apart from all these objections, on the merits I do not see why because a person has been convicted of a non-bailable offence punishable under the Indian Penal Code, he must automatically vacate his position. It may be any kind of offence; it may be an injury received or an injury given in a football match. Why should he automatically vacate his office because that sort of thing has happened? Sir, I object to this amendment.

Prof. N. G. Ranga : Sir, the Honourable the Law Member objected to the first item of this amendment on the plea that the managing agent may come to be convicted in a Court of law for an offence which may not have anything to do with the activities of the particular company. Sir, it is quite possible that one who is a managing agent of the Government of India may come to be directly or indirectly interested in the Durand football match either by financing it or in a philanthropic manner by subscribing to its support. But, Sir, if it is done in the course of his work carried on in the interests of a particular company, and it is for that particular purpose that he is found guilty in a Court of law for an offence which is non-bailable and for which offence he is convicted, I do not see any reason why he should not be made to vacate his office automatically as managing agent. Sir, he wants us to believe that it is not an impossible thing for shareholders to pass a resolution to the effect that the managing agent should vacate his office because he has been convicted of an offence in relation to the affairs of a company punishable under the Indian Penal Code and being under the provisions of the Code of Criminal Procedure non-bailable, etc. But my Honourable friend, Mr. Chettiar, has made it perfectly clear how impossible it is in ordinary circumstances for shareholders to pass a resolution like this.

The Honourable Sir Nripendra Sircar : How would you reconcile that with amendment No. 58 which has been accepted by the House?

Prof. N. G. Ranga : In regard to that it is only a matter of redrafting.

Sir Cowasji Jehangir : Redrafting what you have passed?

Prof. N. G. Ranga : That is for the legal acumen of the Law Member and also the other legal experts in this House to try and redraft this particular amendment in such a way as to make it fit in with that other amendment No. 58.

The Honourable Sir Nripendra Sircar : How can legal acumen override what has been done by the House?

Prof. N. G. Ranga : At the same time the Law Member has not disputed the necessity for taking some action against a managing agent who has been convicted of a non-bailable offence in relation to the affairs of the company, and I only plead that he should try to come to our rescue and help us in making such a provision in this Act so as to enable

understand why the Law Member is not as anxious as we are to help the shareholders to get rid of a managing agent who has been found guilty. I cannot understand why the managing agent should be given even this opportunity of going and placing his case before the shareholders after he has been found guilty in a Court of law. If he is found guilty in one Court of law it is still open to him to appeal to a higher Court of law. He can carry on this procedure of appealing until he is either tired of appealing or he is not able to appeal to any higher Court. But once he is found to be guilty of a non-bailable offence in connection with the activities of that particular company of which he is managing agent and from which he has been paid for so many years, I do not see any reason why he should be given any further opportunity of going to the shareholders and presenting his case and somehow or other manipulating the votes in such a way as to get a majority for himself and continue to be in management of that particular company. Therefore I appeal to the Honourable the Law Member to try to help us and co-operate with us in trying to provide a means by which the shareholders can be helped to get rid of a managing agent automatically as soon as he is convicted of such a serious crime. Sir, it is not that I am anxious to support this amendment as it is, with all the difficulties that the Law Member has pointed out, but I have said these few words only to appeal to him to try to come to our rescue and help us.

Mr. T. S. Avinashilingam Chettiar : Sir, may I say one word ? Since the Law Member has agreed to sub-clause (2) and has also agreed to sub-clause (3) with reference to 87D (5), if I understood him correctly.....

The Honourable Sir Nripendra Sircar : No. I can agree to No. (2) if it is put in the proper place and in the proper way, but the whole of clauses (1) and (3) I strongly object to.

Mr. T. S. Avinashilingam Chettiar : In that case, Sir, can I be permitted to move the following ?

“ That in clause 42 of the Bill, after clause (a) of the proposed section 87B, the following be added as (aa) :

‘ (aa) The office of a managing agent shall be vacated if he is adjudged insolvent ’.”

The Honourable Sir Nripendra Sircar : I am prepared to accept that if the present amendment is withdrawn and the House and the Chair allow him to move it.

Mr. President (The Honourable Sir Abdur Rahim) : I think that will be the proper course for the Honourable Member. He should withdraw this amendment and move another amendment in the terms suggested. Has the Honourable Member leave of the House to withdraw this amendment ?

The amendment was, by leave of the Assembly, withdrawn.

Mr. T. S. Avinashilingam Chettiar : Sir, I move :

“ That in clause 42 of the Bill, after clause (a) of the proposed section 87B, the following be added as (aa) :

‘ (aa) The office of a managing agent shall be vacated if he is adjudged insolvent ’.”

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after clause (a) of the proposed section 87B, the following be added :

‘ (aa) The office of a managing agent shall be vacated if he is adjudged insolvent ’.”

Mr. S. Satyamurti : You will kindly notice, Sir, that I have got an amendment, No. 132 in the Revised Final List, at page 18, which seeks to add new clause—87J—including a number of contingencies under which office is vacated, and insolvency is one.

Mr. President (The Honourable Sir Abdur Rahim) : Then why should this be moved ? I do not know what Mr. Chettiar wants.

Mr. T. S. Avinashilingam Chettiar : This has been accepted by the Government.

Mr. President (The Honourable Sir Abdur Rahim) : But there is another and more comprehensive amendment of Mr. Satyamurti.

The Honourable Sir Nripendra Sircar : The position is, Sir, that the more comprehensive amendment may be lost : I do not know. Supposing the more comprehensive amendment is lost, I do not want my friend to be shut out by any technicality.

Mr. President (The Honourable Sir Abdur Rahim) : Well, it has been moved and I have put it to the House.

The Honourable Sir Nripendra Sircar : I have nothing to say : I accept it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after clause (a) of the proposed section 87B, the following be added :

‘ (aa) The office of a managing agent shall be vacated if he is adjudged insolvent ’.”

The motion was adopted.

Mr. S. Satyamurti : Sir, may I move amendment No. 132 ? I am not moving 87I, because it is covered by the previous amendment. I move :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be added :

‘ 87J. The office of a Managing Director shall be vacated if the Managing Director—

- (a) fails to obtain within the time specified in sub-section (1) of section 84, or at any time thereafter ceases to hold, the share qualification, if any, necessary for his appointment, or
- (b) is found to be of unsound mind by a Court of competent jurisdiction, or
- (c) is adjudged an insolvent, or
- (d) fails to pay calls made on him in respect of shares held by him within six months from the date of such calls being made, or
- (e) without the sanction of the company in general meeting accepts or holds any office of profit under the company other than that of a Managing Director or Manager or a legal or technical adviser or a banker, or

(f) accepts a loan from the company in contravention of section 87D

- (g) is concerned or interested in any contract or arrangement in contravention of section 87D(5),
- (h) is removed from his office by the company under section 87B,
- (i) transfers his office in contravention of section 87B (b), or
- (j) if the company, of which he is the Managing Agent, is wound up, either by the Court, or voluntarily '."

The Honourable Sir Nripendra Sircar : Sir, I have an objection to take to the moving of this amendment on a point of order. If I may draw the attention of the House and of the Chair to section 86G at page 16 of the Bill it says the office of a director shall be vacated if—then there are clauses (a) to (g). The amendment now proposed says that the office of a managing director shall be vacated if—then we have clauses (a) to (j).....

Mr. S. Satyamurti : That was a mistake for managing agent.

The Honourable Sir Nripendra Sircar : No ; when the Honourable Member moved it, he moved it as "managing director".

Mr. S. Satyamurti : No ; it is managing agent.

The Honourable Sir Nripendra Sircar : We are at cross purposes : I thought what was moved was about managing directors.

Mr. S. Satyamurti : Sir, it is a mistake. You will kindly notice that clause 42 of the Bill is concerned with managing agents. I am sorry I repeated the mistake and read it out also as managing agent. I apologise to the Chair and to the Law Member.

The Honourable Sir Nripendra Sircar : But it is not a question of my friend apologising. I do strongly object to a thing like this being started now, that is to say, that the managing agent has got to be removed for any of these things in clauses (a) to (j). For that no notice has been given. I do not know whether this is necessary at all. My Honourable friend should not be allowed to correct that because it is not a merely small change. It is changing the whole thing. While moving he did not correct it, and the Chair should not allow him to correct it now, even though my friend may want it. The whole subject of managing agency will have to be gone over again *de novo* if that change is to be made.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow it to be made now.

Mr. S. Satyamurti : Will you kindly allow me to make a submission ? Clause 42 of the Bill relates to managing agents and only to managing agents. My amendment is to clause 42 of the Bill. In section 87H also I proposed an amendment regarding managing agents : if you will kindly read the proposed amendment—section 87I, it also deals with managing agents. Looking at the context I submit nobody could have read it except as referring to managing agent. It is a mistake. This amendment is to clause 42 of the Bill : there is no managing director at all. In clause (e), you will find it supports my contention because I say "other than that of a managing director".

Mr. President (The Honourable Sir Abdur Rahim) : I am not sure whether you should not give fresh notice. As objection has been taken, I cannot allow this to be moved. I can only go on the wording of the amendment as printed.

Mr. M. S. Aney : May I just put in a word, Sir ? If sub-section (2) of section 86G were read along with this amendment—that sub-section says :

“ Nothing contained in this section shall be deemed to preclude a company from providing by its articles that the office of director shall be vacated on grounds additional to those specified in this section.”

Evidently, the object of the Mover of the amendment was certainly to refer to the managing agent and not to the managing director. He wants the office of director also to be governed independently of the provisions made for the removal of the managing agent. It seems to me to be obviously a mistake in writing, or some such mistake.

Dr. Ziauddin Ahmad : The words “ managing director ” do not occur in the definition clause. In clause 2 of the Bill, “ manager ” and “ managing agent ” occur, and there is no such word as “ managing director ”. Evidently, it is a slip of my Honourable friend, or some such thing.

Mr. T. Chapman-Mortimer : Sir, this list of amendments has been in the possession of the House for the last ten days and if my Honourable friend does not till now discover that there is a mistake in his amendment, I do not think that this House should be lenient in the matter. My Honourable friend should give two days' formal notice. This is a very serious Bill and these amendments require a lot of consideration and I submit that you should not allow the Honourable Member to move his amendment now.

Mr. President (The Honourable Sir Abdur Rah'm) : The Honourable the Leader of the House and other Members take objection to the moving of the amendment in the form now suggested and, I am afraid, therefore, I cannot allow it.

Pandit Govind Ballabh Pant : I move :

“ That in clause 42 of the Bill, after the proposed section 87H, the following be inserted :

‘ 87HHH. The office of a Managing Agent shall be vacated if the Managing Agent acts or is a party to the contravention of any of the provisions contained in—(it must be, ‘ clause ’, and not ‘ this section ’)—clause 42 ’.”

I move that in case of a breach of any of the provisions of clause 42 the managing agent shall vacate his office. The amendment is simple enough. Certain duties have been imposed on the managing agent and certain disabilities too, under this clause 42. He is required to do certain things and to abstain from doing others. If no penalty is provided, then there is little use in prescribing those duties or disabilities or imposing those conditions. In order to make the provisions effective, it is necessary to prescribe some sort of penalty. This Bill teems with many penal provisions in the form of fines, imprisonment, etc., but in clause 42 there is no provision of such a ferocious type. The penalty that I am providing here is much simpler and in case any action is taken by anybody which is not covered by this clause 42, then it will be open to the managing agent, as it is open to other person who is dealt with in an unlawful and illegal manner, to seek the assistance of the Court for the vindication of his rights. That is the remedy available to every person, and that alone is the remedy available to any one when his rights are interfered or dealt with in an unlawful manner. I hope that the House will agree that the provision I am making is necessary, wholesome and salutary.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after the proposed section 87H, the following be inserted :

‘ 87HHH. The office of a Managing Agent shall be vacated if the Managing Agent acts or is a party to the contravention of any of the provisions contained in clause 42 ’.”

The Honourable Sir Nripendra Sircar : I do not want to raise a point of order, but I want the House to realise what is happening. We are now providing that for breach of any of the provisions in clause 42, which runs into four pages, the managing agent's office shall be vacated. We have in the different sub-clauses provided for penalties in respect of some. If the House will turn to page 20, they will find, for contravention of section 87D, which is in clause 42 :

“ In the event of contravention of sub-section (1) any director of the company who is a party to the making of the loan shall be punishable with fine which may extend to five hundred rupees.”

Section 87E, paragraph 2 :

“ In the event of any contravention of the provisions of this section, any director or officer of the company making the loan or giving the guarantee who is knowingly and wilfully in default shall be liable to fine and make good the loss.....”

So that, in some of the cases, not in all, we have provided a punishment or penalty for contravention of the sub-clauses of 42. I admit that there are many other sub-clauses about which there is no penalty.

Mr. Bhulabhai J. Desai : Assignment of office.

The Honourable Sir Nripendra Sircar : In respect of some of them penalties have not been specifically provided for, I mean they have been deliberately not provided for as being unnecessary. For instance, if the transfer is void, then it is for the company to proceed on the footing that the transfer is void. It is not necessary that for every contravention of the numerous sub-clauses the managing agent must be sent to jail.....

Pandit Govind Ballabh Pant : I am not sending him to jail.

The Honourable Sir Nripendra Sircar : On the merits, I have only one submission to make to this House. Of the numerous provisions, if there is the slightest breach of any one of them, what is the punishment ? He will vacate his office. As I said, my Honourable friend, I am quite sure, does not want to get rid of the managing agent, but at the back of his mind he is obsessed with the idea that the managing agent is a nuisance and should be removed. I am quite sure that he believes that he does not want the managing agent to be removed, but that is what he is doing. Here are sub-clauses which run into three pages. If there is a breach of any of them, then there is no half-way house, he must vacate automatically.

Sir Cowasji Jehangir : The punishment does not suit the crime.

The Honourable Sir Nripendra Sircar : Severe punishment. He must vacate automatically if any of the numerous sub-clauses which cover three pages are broken. I submit that on the merits it is too drastic a punishment even for the managing agent.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after the proposed section 87H, the following be inserted :

‘ 87HHH. The office of a Managing Agent shall be vacated if the Managing Agent acts or is party to the contravention of any of the provisions contained in clause 42 ’.”

The motion was negatived.

Babu Baijnath Bajoria : In view of the fact that Regulation 71 has been made compulsory, I do not want to move amendment No. 136.

Pandit Govind Ballabh Pant : Again, I have to seek your indulgence. Amendment No. 138. In place of the words “ this Act ”, the words which in reality I wanted to write, it must be a mistake of mine, were “ any agreement ”, so that the amendment will read as follows :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87HHHH. Nothing in any agreement or in the articles of association of any company shall prejudice the right of the company to remove the managing agent according to general law ’.”

An Honourable Member : What is the meaning of that ?

Pandit Govind Ballabh Pant : The meaning is that the managing agent is liable to be removed under ordinary law for many things which are not covered by this Act. A speech was made by the Honourable the Law Member dealing with this aspect of the matter.

Mr. M. A. Jinnah : As if the agreement did not exist ?

Pandit Govind Ballabh Pant : Yes, as if the agreement did not exist. In order to remove such misapprehension, I am introducing this clause. This has also another object.

Sir H. P. Mody : Can you give an illustration ?

Pandit Govind Ballabh Pant : Yes. Sometimes an agreement has a condition like this that in spite of the managing agent embezzling the money of the company he will not be liable to be removed or in spite of the managing agent dealing with the affairs of the company not only in an incompetent and inefficient but even in a dishonest manner he will be entitled to continue as a managing agent. I have seen agreements in which provisions have been made to the effect that the managing agent may be guilty of negligence or default and breach of duty, yet no action need be taken against him. By means of this provision I want to nullify all such restrictive clauses which tend to prevent the operation of the ordinary law and to protect the managing agent against the wrongs which are actionable in ordinary law. I would have preferred the language of clause 86C which is applicable to directors, auditors and other officers and has been taken from the English Act but unfortunately I did not table an amendment in that form. If the Law Member approves of it, as I have not much confidence in my drafting, I would suggest that the language of 86C be adopted with this little change that in place of the director or officer and so on, we may have the words managing agent. Then it will be very easy to draft. In fact the managing agent might be introduced in 86C itself. That will simplify matters. I do not know if the Honourable the Law Member will accept my assurance. I do not

want to hit the managing agent in an indirect manner. I would be sorry if I ever attempted to stab any one. I should rather like to fight him as man to man if necessary than in an indirect manner. I want the managing agent to be there but I want to protect him against such temptations as are likely to mislead even saints.

Mr. T. Chapman-Mortimer : On a point of order. I understood my Honourable friend to say that he wants to change his amendment. He wants that instead of the word "Act" there should be the word "agreement" (*An Honourable Member* : "any agreement")—he wants "any agreement", which makes it worse. It changes the whole sense of this amendment and then he goes on, if I understood him correctly, it is not to be 87H but 86C or some wording taken from it. I submit that a question of changing a Bill of this kind is very important and ought not to be allowed unless proper notice is given.

The Honourable Sir Nripendra Sircar : I do not raise any point of order. But the point really is of very great importance in this way. As I have said in my previous speech, we very often come across articles which contain rather peculiar clauses. It may be that my Honourable friend, Mr. Chapman-Mortimer, has not come across those clauses in the agreement.

Mr. President (The Honourable Sir Abdur Rahim) : At this stage, I should like to know whether the Law Member has got anything to say on the point of order raised by Mr. Chapman-Mortimer.

The Honourable Sir Nripendra Sircar : On the point of order, I say nothing.

Mr. President (The Honourable Sir Abdur Rahim) : I do not think that any Honourable Member has been seriously misled by the changes made in the wording of the amendment. I will, therefore, put the amendment to the House.

Amendment moved :

"That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

' 87HHHH. Nothing in any agreement or in the articles of association of any company shall prejudice the right of the company to remove the managing agent according to general law '."

The Honourable Sir Nripendra Sircar : If Honourable Members of this House will turn to page 15, 86C, what is wanted really by the amendment is that in 86C, after the words in the fourth line 'for exempting any director, manager or officer of the company' the words managing agent should be put in. Then the whole object is gained but possibly the difficulty is this. 86C really relates to directors. First of all that section has been passed and secondly it may not be appropriate to lump up the managing agent with the director but as regards the substance, I do not think my Honourable friend, Mr. Chapman-Mortimer, will oppose it, for this reason. 86C has been taken verbatim from section 152 of the English Act which runs thus (And I shall

[Sir Nripendra Sircar.]

submit in a moment that this is far more necessary here than in England) :

“ Save as hereinafter provided, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer or any person employed by the company as auditor from or indemnifying him against any liability which by virtue of any rule of law would otherwise attach to him in respect of such negligence, etc., shall be void.”

Unfortunately I have come across, in my experience at the bar, many extraordinary agreements. For instance, the managing agent is not liable to be removed for fraud, unless that fraud has been proved in a Court of justice and that having been done it must come before the shareholders. There must be a three-fourths majority. Every shareholder must be notified, the notice being of twelve months and a general notice will not do. This is an extreme case but there are other agreements also which relieve them from wilful default, negligence, neglect and all other grounds on which any agent should be removed. To prevent that, section 152 of the English Act has been enacted and it has been copied verbatim in 86C on page 15 and by reason of 86C, the provisions of the English Act apply to directors, officers and managers. It must be the intention of everybody not to exclude the managing agent and to make those clauses applicable only to directors, officers and managers and so on. The question is how this has got to be done. I am not sure whether the managing agent is not already included. I do not think I can agree to the form which has been proposed by my Honourable friend, because I fight shy of these general words “ according to general law ”, and so on. If you will go back to the language of 86C and move it in such a form that all that it means is that what applies to the director will also apply to the managing agent, to that I shall have no objection ; and I do suggest that the same result could be obtained by simply stating that the provisions of 86C will apply to managing agents.

Pandit Govind Ballabh Pant : Then you might move an amendment to my amendment ?

The Honourable Sir Nripendra Sircar : I have not given notice of any such amendment.

Mr. N. C. Chunder : Can't we say that for the purposes of 86C a managing agent shall be considered to be an officer of the company ? In that case it is the same thing.

The Honourable Sir Nripendra Sircar : I do not think my Honourable friend is proposing that. You cannot touch 86C now, but what he proposes is that in clause 42 you put in a sub-clause that for the purposes of this sub-clause the managing-agent provisions of 86C will apply to the managing agents. Of course the exact words I cannot formulate just now, nor do I know if it is necessary.

Mr. President (The Honourable Sir Abdur Rahim) : You want that to stand over ?

The Honourable Sir Nripendra Sircar : I think so, Sir ; this is a very important matter. I think we are all agreed upon the principle. Subject to what my Honourable friends have got to say, I do not see

any reason why you should apply the provisions of 86C to all officers, directors, auditors and everybody and exclude the managing agents. That surely is not our idea. It is purely a mistake on our part, if the managing agent has been excluded.

Mr. President (The Honourable Sir Abdur Rahim) : Very well, it will then stand over.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadian Rural) : Sir, I beg to move :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be added :

‘ 87I. The managing agent shall not hold directly or indirectly more than 25 per cent. of the share capital of the company :

Provided this sub-section will not apply to private companies ’.”

The Honourable Sir Nripendra Sircar : What will happen if he does hold 26 per cent. ?

Mr. Suryya Kumar Som : That will be illegal.

The Honourable Sir Nripendra Sircar : There is no provision in your amendment for anything happening to him.

Mr. Suryya Kumar Som : Then, he will not be considered as holding more than 25 per cent. of shares. Sir, I know this provision will have not the support of many but I have been hearing during this discussion on the Companies Bill a lot about the powers of the managing agent in the matter of controlling the votes, controlling the business, and controlling the directorate also, and, Sir, it has been often argued that managing agents, having secured fifty-one or sixty per cent. of the company's shares, can nullify all the salutary provisions that are being enacted in this Bill. This has been the gist of the arguments for all these days against the managing agents. Now, Sir, if there is really any intention to take away the controlling power of the managing agent over everything of the company against the wishes of the shareholder, I think some such provision should be made. It may be argued that if a managing agent be a very rich man, he can supply almost seventy-five per cent. of the capital and it will be to the advantage of the company to avail itself of that ; and it may be argued also that the people expect that the managing agent should come forward to finance the company. But I leave it to you to consider that the money can be supplied to the company in various ways other than by having shares purchased. The managing agent can supply capital as a debenture-holder, he can supply capital as loans, in fact in many ways without controlling the voting capacity of the company ; he can help the company in various other ways and thus justify his position as a managing agent. So far as I know it is the talk everywhere, whenever you find any injustice done by the managing agents to the shareholders, and when there is a combined attempt made by the shareholders to control the managing agent they find that in reality the managing agents control the majority of the shares, the cry among the public is as to how to check the powers of the managing agents. The difficulty however is this. If the managing agent controls the majority of the votes, how can the shareholders control him ? That has really been the helpless condition of the shareholders. Assuming for the sake of argument that a managing agent is thoroughly dishonest

[Mr. Suryya Kumar Som.]

in dealing with the affairs of the company, (I do not say that all managing agents are dishonest) if a managing agent proves to be such and is careful to evade the penal sections of the Act, the question is, how to control him? The only effective way would be not to allow him to have a control over the majority of votes. If the shareholders have the majority of the votes, they can compel him to obey their directions and they can impose limitations on his whims. Therefore, I propose that managing agents should under no circumstances hold more than 25 per cent. of the share capital and I therefore move this motion.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be added :

‘ 87L. The managing agent shall not hold directly or indirectly more than 25 per cent. of the share capital of the company :

Provided this sub-section will not apply to private companies ’.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment ; I do not propose to make a speech.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be added :

‘ 87L. The managing agent shall not hold directly or indirectly more than 25 per cent. of the share capital of the company :

Provided this sub-section will not apply to private companies ’.”

The motion was negatived.

Mr. S. Satyamurti : Sir, with your leave, and in order to shorten the discussion, may I ask one question of the Honourable the Law Member ? There are three amendments of mine on the same subject,—*viz.*, Nos. 141, 142, and No. 1 in Supplementary List No. 8 to the Revised Final List. Will my friend kindly indicate whether he will accept any of these amendments ? I will then consider my course of action.

The Honourable Sir Nripendra Sircar : Sir, my position is this. I feel quite definite that this is not wanted at all. You need not say in this section :

“ Notwithstanding anything to the contrary in the Articles of Association or in any contract with the Company, no managing agent shall have any power to appoint a director of a Company of which he is the managing agent.”

That is my view. The section is quite absolute. You are barring something to be done, and in these two sections you need not say :

“ Notwithstanding anything to the contrary in the Articles of Association.....”

“ But on the merits of 87K, no managing agent shall have power to appoint a director.”

I think my friend knows in that case what the answer will be. I shall oppose.

Mr. S. Satyamurti : What about 142 ?

The Honourable Sir Nripendra Sircar : We shall oppose that amendment. If it is now carried, it will mean that all the special directors, debenture-holders and Government men and so on will come out of the one-third which I shall oppose.

Mr. S. Satyamurti : Sir, in view of the statement of the Honourable the Leader of the House, I do not move my amendments Nos. 141 and 142, but I do move amendment No. 1 on Supplementary List No. 8 with a slight modification. I move :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87K. No managing agent shall have any power to appoint more than one director of a company of which he is the managing agent ’.”

You will notice, Sir, and the House will notice that the Bill, as originally recommended by the Select Committee contained a provision providing for shareholders a minimum of one-third of directors and a maximum of one-third for the managing agents. By some accident that got knocked out and I am trying to repair the mischief at this stage. I am moving this provision that managing agents shall not have the power to appoint more than one director. The result of all these amendments so far carried is that managing agents have certain definite functions to discharge and the directors have certain other functions to discharge. Dyarchy is bad enough but if it is to consist of one-half of nominated members then it becomes monarchy masquerading as dyarchy. Today, the managing agents not only have all the powers under this Bill but also they have the power of nominating directors to an unlimited extent. I am sure all those Honourable Members who want the prosperity of our companies will agree with me that shareholders must have the right to elect directors. Of course, there may be some need for the managing agents to have their point of view presented on the directorate so that their cases may not be decided by default. That is why I provide that one director should be nominated by the managing agent. His functions are well-defined in the agreement or in the articles of association or under this Act. He knows exactly what his duties and responsibilities are. On the other hand, we must, I think, have an independent directorate independent of the managing agents who will be responsible only to the shareholders. I think it is a happy compromise by which we will have directors who will carry on the general management of the company and there will be the managing agents who will be discharging their duties under their contract with the company or under the articles of association or under this Act. It seems to me that that will be the best way of guaranteeing to managing agents their freedom, to directors their freedom and the shareholders having their voice on the directorate.

Babu Baijnath Bajoria : May I ask a question ? If there are six or eight directors, how many directors will be sent by shareholders ?

Mr. S. Satyamurti : The question is this. The managing agent ought not to manage the company directly himself and then pull the strings of the directors also. After all, the managing agent must have his rights and liabilities. It is not right that he should have all his rights and privileges under the contract, under the articles of association and under this Act and yet also seek to influence the directorate unduly.

[Mr. S. Satyamurti.]

Let him have his case represented by all means. Having done that, the entire management should be in the hands of the directors.

The Honourable Sir Nripendra Sircar : This may be required for repairing the mischief you have done, but no one has suggested one director so far.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment
5 P.M. moved :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87K. No managing agent shall have any power to appoint more than one director of a company of which he is the managing agent.’ ”

Further discussion of this amendment will be carried on on Monday.

The Assembly then adjourned till Eleven of the Clock on Monday, the 5th October, 1936.

72313

LEGISLATIVE ASSEMBLY.

Monday, 5th October, 1936.

—

The Assembly met in the Assembly Chamber at Eleven of the Clock,
Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

—

MEMBER SWORN.

—

Mr. Srimanta Kumar Das-Gupta, M.B.E., M.L.A. (Bengal :
Nominated Official).

—

QUESTIONS AND ANSWERS.

PROTECTION OF THE RIGHTS OF INDIANS IN CEYLON.

776. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled " Indians' hard lot in Ceylon " in the *Amrita Bazar Patrika* of the 31st July ;
- (b) whether they have enquired or propose to enquire into the latest position in regard to Indians in Ceylon ; and
- (c) whether they are prepared to take adequate steps to protect their legitimate rights ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The position of Indians in Ceylon is constantly under the observation of the Agent of the Government of India who may be relied upon to do whatever they can to protect their legitimate interests.

Mr. M. Ananthasayanam Ayyangar : Have any of the servants employed by the Local Boards been turned out of office ?

Sir Girja Shankar Bajpai : No, Sir, I have no information about anybody employed by Local Boards having been turned out.

Pandit Lakshmi Kanta Maitra : Is it not a fact, Sir, that a great agitation is going on against the turning out of so many Indian employees ?

Sir Girja Shankar Bajpai : No, Sir, there is a general agitation about the emigration from India into Ceylon, and a Commission has been appointed by the Ceylon Government to go into the question.

Dr. Ziauddin Ahmad : Will the Government publish any communiqué on this question after the inquiry has been completed ?

Sir Girja Shankar Bajpai : After the Commission has completed its inquiry I presume its Report will be published by the Government of Ceylon.

Pandit Lakshmi Kanta Maitra : What is the attitude of the Ceylon Government at present towards Indians in Ceylon ?

Sir Girja Shankar Bajpai : I don't think that there is any hostility on the part of the Ceylon Government towards Indians in Ceylon.

Dr. Ziauddin Ahmad : The Honourable Member just said that Government is watching the situation carefully and the Commission will publish its own Report, but will the Government publish its own communiqué as to what they have achieved as regards the position of Indians in Ceylon ?

Sir Girja Shankar Bajpai : If the Report recommends anything adverse to India and the Government of India have to take action in order to protect Indian interests, then the result of the action taken by them will undoubtedly be communicated to the House and the public.

Dr. Ziauddin Ahmad : Will the Government of India send any letter or any representation for the consideration of this Commission or depute any officer on behalf of the Government of India to watch the interests of Indians ?

Sir Girja Shankar Bajpai : The Indian community in Ceylon is fairly numerous and well organized and will put forward its own case, and the Agent to the Governor General will help it to put forward the case, if required.

Dr. Ziauddin Ahmad : Will they also represent the feelings of Indians in India ?

Sir Girja Shankar Bajpai : That assumes that the Commission are going to adopt an attitude hostile to the Indian community in Ceylon.

Dr. Ziauddin Ahmad : What will the Government of India do to protect the interests of the Indian community in Ceylon.

Sir Girja Shankar Bajpai : The Government of India will protect the interests of the Indians in Ceylon when the occasion arises.

GOVERNMENT'S QUININE POLICY.

777. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled "Government's Quinine Policy" in the *Hindu* of the 29th July ;
- (b) whether they have examined particularly the criticism in the article that the Government of India's action is tantamount to giving a big subsidy to the quinine users abroad at the expense of the Indian tax-payer and showing utter indifference to the needs of the dying thousands in this country ;

(c) whether they propose to take measures to make the drug available for *bonâ fide* use free to all who cannot afford to purchase it ; and

(d) if not, why not ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The suggestion that the Government of India started sales of quinine for profit to the trade after the allocation of 45,000 lbs. to the Provinces last year for free distribution is entirely incorrect. The sales of quinine outside India mentioned in the article are the result of negotiations which were started in 1933 in pursuance of the recommendations of the Public Accounts Committee and after the effort to persuade the provinces to purchase additional quantities at Rs. 12 per lb. had failed. The price at which such sales have been effected is well above the figure of Rs. 12 and certainly not tantamount to a subsidy to quinine users abroad. I would add that as the Government of India's surplus stock is now practically down to the 1,50,000 lbs. which they have decided to keep as a reserve for a national emergency, these sales will soon cease.

(c) and (d). The attention of the Honourable Member is invited to the relevant portion of my speech in the Legislative Assembly on 18th March, 1936, delivered in reply to Dr. Rajan.

Mr. M. Ananthasayanam Ayyangar : May I know, Sir, at what price per pound the Government of India sold quinine to other countries ?

Sir Girja Shankar Bajpai : We did not sell quinine to any country, but as I have already indicated in my reply, we had been in negotiation since 1933 with a firm of chemists in England, and we sold it to them at about Rs. 15 per pound.

Pandit Lakshmi Kanta Maitra : May I know if the stock of quinine is sufficient to meet the demands of India ?

Sir Girja Shankar Bajpai : We do not keep a supply to meet all the demands of India. Our medical experts have advised us to keep a stock to meet a national emergency, and that stock is, as I have explained to the House, amounts to 150,000 pounds.

Dr. Ziauddin Ahmad : May I know, Sir, what quantity did the Government of India distribute amongst the provinces ?

Sir Girja Shankar Bajpai : The Government of India gave last year 45,000 pounds to the provinces for free distribution.

Dr. Ziauddin Ahmad : Can the Honourable Member lay on the table a statement showing how much quinine was distributed to each province ?

Sir Girja Shankar Bajpai : Oh, yes, certainly I can undertake to give that information to the House.

Mr. M. Ananthasayanam Ayyangar : May I know when the sales abroad will cease. The Honourable Member said that the sales to foreign countries would cease soon ?

Sir Girja Shankar Bajpai : If they have not already ceased they will cease in the course of the next month or two, because our surplus has disappeared ; there is none left.

Mr. M. Ananthasayanam Ayyangar : Is there any programme of distributing quinine free to the provinces for some years more ?

Sir Girja Shankar Bajpai : No, Sir, because our stock now is 150,000 pounds which we wish to reserve for a national emergency.

Mr. M. Ananthasayanam Ayyangar : For normal use what are the provinces to do ?

Sir Girja Shankar Bajpai : For normal use they will get what they want on payment from the Government of India's annual output of quinine, as also from the annual output of quinine from the Governments of Madras and Bengal who are producers of quinine.

ARTICLE ENTITLED " INDIAN INTERESTS FIRST " PUBLISHED IN THE *Bombay Sentinel* REGARDING NEGOTIATIONS TO REPLACE THE OTTAWA TRADE AGREEMENT.

778. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article entitled ' Indian Interests First ' in the *Bombay Sentinel* of the 25th July ;

(b) whether they will keep in view all the considerations mentioned in the article, in conducting their negotiations for replacing the ' Ottawa Pact ' ; and

(c) whether the Honourable the Commerce Member himself proposes to take any part in these negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). Yes, Sir.

Mr. M. Ananthasayanam Ayyangar : Is there any chance of this non-official Advisory Council going to England ?

The Honourable Sir Muhammad Zafrullah Khan : It is not a non official Advisory Council as I have explained. I have also already answered questions with regard to their going to England.

STATEMENT ON INDIAN INTERESTS IN TANGANYIKA BY MR. H. VELLANI.

779. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to a recent statement on ' Indian Interests in Tanganyika ' by Mr. H. Vellani, a Barrister from Tanganyika, published in the newspapers ; and

(b) whether they have examined his statements with regard to the future of the territory and what action they propose to take thereon ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The attention of the Honourable Member is invited to the statement on the subject of transfer of mandated territories made in the

House of Commons by the Secretary of State for Foreign Affairs on the 27th July last, copies of which are available in the Library of the House. They do not consider that any action on their part is necessary at this stage.

STATEMENT ON THE RENEWAL OF THE INDO-JAPANESE TRADE AGREEMENT
BY MR. M. P. GANDHI.

780. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to the statement from Mr. M. P. Gandhi on the terms and renewal of the "Indo-Japanese Trade Agreement" published in the *Hindu* of the 23rd July ; and

(b) whether they will bear all these considerations in mind in negotiating a fresh pact, and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes, Sir.

Dr. Ziauddin Ahmad : Will Government consider the fact that in view of the quota system, it is not necessary to put a very heavy import duty as well ?

The Honourable Sir Muhammad Zafrullah Khan : That is a suggestion ; it is not asking for information.

Mr. M. Ananthasayanam Ayyangar : May I know if the question of restricting the import of artificial silk is also being considered ?

The Honourable Sir Muhammad Zafrullah Khan : Everything is being considered.

Mr. M. Ananthasayanam Ayyangar : Is it only confined to cotton textiles or is it also extended to artificial silks ? What are the other items of imports to which this inquiry is now extended ?

The Honourable Sir Muhammad Zafrullah Khan : I don't think it would be desirable to lay down a list of the commodities which are under consideration.

Dr. Ziauddin Ahmad : Are the Government considering other commodities besides textiles ?

The Honourable Sir Muhammad Zafrullah Khan : I have already said that Government are considering the general question of a trade agreement between Japan and India.

Mr. M. Ananthasayanam Ayyangar : Is the Government considering the total quantity of imports ?

The Honourable Sir Muhammad Zafrullah Khan : Naturally, that must come under consideration.

GRIEVANCES OF INDIANS IN MALAYA.

781. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the speech of the President of the Indian Association, Penang, on the grievances of Indians in Malaya, reproduced in the *Hindu* of the 25th July ;
- (b) whether they have examined all these grievances ; and,
- (c) what action they have taken, and with what result ?

Sir Girja Shankar Bajpai : Sir, with your permission I shall reply to questions No. 781 and No. 785 together.

Government have seen the articles in question. Attention of the Honourable Member is invited to the statement laid on the table of the House in reply to Mr. Ram Narayan Singh's starred question No. 104 on the 3rd September, 1936. I may add that the question of representation of Indians in services is already receiving attention.

Mr. Mohan Lal Saksena : May I know whether Government propose to send a deputation to Malaya ?

Sir Girja Shankar Bajpai : I have answered a question on that subject, yes.

Dr. Ziauddin Ahmad : When will the deputation be sent ?

Sir Girja Shankar Bajpai : We have not settled the date, nor the personnel.

Mr. Mohan Lal Saksena : Is it not a fact that the number of labourers has fallen down considerably from January to July, 1936, as compared with the corresponding period in 1935 ?

Sir Girja Shankar Bajpai : That is so, I believe. The fact has been brought out in the Agent's six monthly report.

CONSTRUCTION OF A RAILWAY LINE FROM TANJORE TO PATTUKOTTAI.

782. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether there is any proposal to construct a railway line from Tanjore to Pattukottai ;
- (b) at what stage the proposal stands ; and
- (c) when the line will be started and completed ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (c). The project has been examined, but the estimate shows that it would not be remunerative. It is not proposed to take any further steps unless the Madras Government express a desire that the line should be built under a guarantee.

Mr. M. Ananthasayanam Ayyangar : Are there any negotiations in progress between the Government of Madras and the Government of India as to whether they are prepared to give a guarantee ?

The Honourable Sir Muhammad Zafrullah Khan : No such negotiations are in progress.

Dr. Ziauddin Ahmad : In view of the fact that a Statutory Railway Board is to be set up, how far is it desirable to involve the Local Government in this costly project ? They should also consider the convenience of the people ?

The Honourable Sir Muhammad Zafrullah Khan : As I have explained, on the data available, the line is considered not to be a remunerative project. If in any such case, a Local Government thinks that a project is remunerative and that the Railway Board are not taking a correct view of the matter, it is open to such Local Government to make a request that the construction of the line should be undertaken and that the Local Government would guarantee a minimum return on the outlay.

Dr. Ziauddin Ahmad : Will the Government also consider the convenience of the people and the convenience of transport of agricultural products ?

The Honourable Sir Muhammad Zafrullah Khan : Those are always considered.

HEALTH OF MR. SUBHASH CHANDRA BOSE.

783. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) what the latest report they have received about the health of Babu Subhash Chandra Bose is ;
- (b) whether his health is normal ; and
- (c) whether all steps are being taken to give him adequate and necessary medical relief ?

The Honourable Sir Henry Craik : (a) The report is inconclusive and the doctors who examined Mr. Bose have recommended further examination, and meanwhile the continuance of the present treatment.

(b) While it cannot be said that Mr. Bose's health is at this moment quite normal, the report, which as I have said is inconclusive, does not make out that any serious complaint has been discovered.

(c) Yes.

Mr. V. V. Giri : Is it not a fact that Mr. Bose has been reduced in weight ?

The Honourable Sir Henry Craik : Yes, there has been some reduction.

Mr. V. V. Giri : Is it not also a fact that there has been some rise in temperature in the afternoons ?

The Honourable Sir Henry Craik : A slight rise, yes.

Mr. M. Ananthasayanam Ayyangar : What are the recommendations of the doctors ? Do they want further examination by other doctors or by themselves at a later stage ?

The Honourable Sir Henry Craik : Further examination and possibly an X-ray examination.

Mr. M. Ananthasayanam Ayyangar : Do they want a further examination in the same place or elsewhere ?

The Honourable Sir Henry Craik : At Darjeeling for some of the examination and possibly at Calcutta for some other examination, but that is not certain.

Mr. M. Ananthasayanam Ayyangar : Is he going to be sent to Calcutta now ?

The Honourable Sir Henry Craik : We are awaiting a further report ; if the doctors say that he should be sent to Calcutta, it will be done.

Pandit Lakshmi Kanta Maitra : Sir, I gave short notice question on the same subject. I am afraid I have heard nothing about it from the office. I do not know whether the Honourable Member in charge refused to answer it with short notice. Anyhow I should like to put some supplementary questions now.

Has the attention of the Honourable Member been drawn to the Press Report, dated the 25th September, 1936, reproducing the substance of a letter written by Mr. Bose to Dr. D'Silva, about his present state of health ?

The Honourable Sir Henry Craik : I think I did see that ; yes.

Pandit Lakshmi Kanta Maitra : Is it a fact that the weight of Mr. Bose has fallen by 21 lbs. ?

The Honourable Sir Henry Craik : I did not hear that.

Pandit Lakshmi Kanta Maitra : Is it not a fact that his weight in April, 1936, at Yerrawada prison was 174½ lbs., by middle of June this year at Kurseong, 171 lbs. by the end of July at Kurseong, 168 lbs. and on the 9th September, 1936, it was found to be 164 lbs. as against 185 at the time of his admission into the jail ?

The Honourable Sir Henry Craik : Those statements are not correct ; the total weight has fallen by seven lbs. according to the doctors.

Pandit Lakshmi Kanta Maitra : Is it not a fact that he has been suffering from a sort of dull pain in the region of his liver ?

The Honourable Sir Henry Craik : He complains of a dull pain in the right hypochondrium and epigastrium in the region of the gall bladder operation and below it.

Pandit Lakshmi Kanta Maitra : Is it not a fact that on the 9th September, 1936, he was examined by Sir Nilratan Sircar and the Civil Surgeon of Darjeeling and they noticed a dull friction sound in his lungs ?

The Honourable Sir Henry Craik : There are friction sounds at the base of the right lung.

Pandit Lakshmi Kanta Maitra : Is it not also a fact that for lack of facilities in Kurseong, these doctors could not thoroughly examine him in the way they liked to.

The Honourable Sir Henry Craik : I have said they recommended a further examination which is going to take place.

Pandit Lakshmi Kanta Maitra : Is it not also a fact that he has been undergoing a series of emetine injections at the present moment and it is causing him great trouble ?

The Honourable Sir Henry Craik : I think he did have emetine injections. The trouble is not mentioned in the report.

Mr. President (The Honourable Sir Abdur Rahim) : I do not know whether the Honourable Member considers it desirable that matters like these regarding the health of Mr. Bose should be dealt with in detail in this House.

Pandit Lakshmi Kanta Maitra : I gave notice of a short notice question on this very subject about a month ago and since I have had no reply to that, I am pursuing this matter now.

Mr. President (The Honourable Sir Abdur Rahim) : I know. But is it desirable that the health of Mr. Bose should be discussed like this in the House ?

Pandit Lakshmi Kanta Maitra : In view of the fact that facilities are not available in Darjeeling nor in Kurseong do Government propose to have him thoroughly examined and to have a thorough diagnosis and afford him better treatment by bringing him down to Calcutta ?

The Honourable Sir Henry Craik : I have answered that.

Mr. Mohan Lal Saksena : Where do Government propose to keep him in winter ?

The Honourable Sir Henry Craik : Where he is now ; in Kurseong.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member aware that Mr. Bose complained that the climate of Kurseong is very trying to him ?

The Honourable Sir Henry Craik : I am not aware of that. The climate is probably better than that of Calcutta.

Mr. Mohan Lal Saksena : Are the Government consulting the doctors in this matter ?

The Honourable Sir Henry Craik : Yes, Sir.

Pandit Lakshmi Kanta Maitra : Did the doctors advise a short change to Calcutta for three months.

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

SEIZURE BY CUSTOMS AUTHORITIES OF CERTAIN BOOKS.

784. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article in the *Amrita Bazar Patrika* of the 24th of July on the action of the Customs authorities with respect to certain books ;

(b) whether it is a fact that the Customs authorities have seized such novels as *Anna Karenina*, *The Brothers Karamazov*, and the *New Indian Literature* ;

(c) whether their attention has been drawn to the statement of some prominent public men of Great Britain : " It seems to us who stand for the right of free expression and thought in this country, that this attempt of the Government of India to stifle every expression of artistic and cultural value is nothing less than a denial of the elementary rights of individuals to indulge in purely intellectual curiosity ; and we protest strongly against this illegal stoppage in the post of material that has not been officially penalised by the Government of India " ; and

(d) whether they propose to take steps to see that no genuine literature is proscribed entry into this country ?

The Honourable Sir Henry Craik : (a) and (c). I have seen the article referred to.

(b) No copies of the books "*Anna Karenina*" and "*The Brothers Karamazov*" have been seized by the Customs authorities so far as I am aware. The entry into British India of the publication entitled "*New Indian Literature*" is prohibited under the provisions of section 19 of the Sea Customs Act.

(d) In prohibiting the entry of publications into India Government are not concerned with the literary merit of the publications, but they take into consideration whether the publications, if in circulation in India, are likely to prove harmful.

Pandit Lakshmi Kanta Maitra : Is it not a fact that prominent literary men in Great Britain have protested against the ban on these books ?

The Honourable Sir Henry Craik : No copies of the books have ever been seized by the Customs authorities so far as I am aware. The supplementary question therefore does not arise. The Honourable Member should have listened to the answer I gave before he put his question.

Mr. M. Ananthasayanam Ayyangar : Is there any local authority besides the Customs authority to examine this question from time to time and decide what books are to be proscribed ?

The Honourable Sir Henry Craik : As far as I am aware, only the Government of India have authority to ban the entry of a publication into India under the Sea Customs Act.

Mr. M. Ananthasayanam Ayyangar : Has the Honourable Member himself ever gone through any of these books ?

The Honourable Sir Henry Craik : No, Sir.

Mr. M. Ananthasayanam Ayyangar : May I suggest—that on the lines of the Board of Censors for Films, a Board of Censors might be appointed for each Province whose duty will be to decide which books should be proscribed and which not.

The Honourable Sir Henry Craik : The Local Government is competent to do it. Only the Government of India can forbid the entry of books under the Sea Customs Act.

Prof. N. G. Ranga : Will the Government place on the table of the House a list of the books which have been proscribed till now ?

The Honourable Sir Henry Craik : I have already answered a question about that in the negative.

Mr. Lalchand Navalrai : May I know which authority under the Provincial Government decides that a certain book is to be proscribed ?

The Honourable Sir Henry Craik : The Governor in Council.

Mr. M. Ananthasayanam Ayyangar : What steps are Government taking to see that genuine literature is not proscribed ?

The Honourable Sir Henry Craik : I do not understand what the Honourable Member means by genuine literature.

Prof. N. G. Ranga : Is there any special officer in the Government of India whose business it is to go through these books and advise Government as to whether they should be banned or not ?

The Honourable Sir Henry Craik : I do not see that that question arises. The order is passed under the authority of the Governor General in Council. That is all that I am prepared to say.

Prof. N. G. Ranga : Have the Government of India.....

Mr. President (The Honourable Sir Abdur Rahim) : The specific question has been answered. If the Honourable Member wanted any further information on that point he should have given notice.

Prof. N. G. Ranga : Sir, I submit that this question arises out of clauses (c) and (d). There is a quotation given here protesting against the manner in which the Government of India have been proscribing books indiscriminately, and there is a question whether they propose to take steps to see that no genuine literature is banned in this country. Therefore I want to put this question whether they have any officer who is deputed to do this in order that no genuine literature is needlessly proscribed.

Mr. President (The Honourable Sir Abdur Rahim) : He has answered that it is done on the responsibility of the Government of India.

PROBLEMS AFFECTING INDIANS IN MALAYA.

†785. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article on the Indian Community in Malaya in the *Hindu* of the 24th July ; and

(b) whether the facts stated therein are correct, and what steps they are taking to secure a fair solution of the problems affecting Indians in Malaya ?

POST OF THE CABINET SECRETARY.

786. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) the reasons for which Sir Eric Mievile was sent on deputation last summer ;
- (b) whether there is any proposal of abolishing the post of ' Cabinet Secretary ' to the Government of India ; and
- (c) what arrangements are proposed in view of Sir Eric's not returning to India ?

The Honourable Sir Henry Craik : I would refer the Honourable Member to the replies which I gave to the Honourable Member's question No. 417 on the 16th September, 1935, to Mr. C. N. Muthuranga Mudaliar's question No. 512 on the 18th September, 1936, to the supplementary questions then asked and the replies given by me.

ARTICLE ENTITLED "ROADS AND ROAD TRANSPORT" PUBLISHED IN THE *Madras Mail*.

787. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled ' Roads and Road Transport ' in the *Madras Mail* of the 24th July ;
- (b) whether they have assessed the value of the criticisms made therein on their proposals ; and
- (c) what action, if any, they propose to take thereon ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) and (c). Yes, the matter will come up for consideration of this House when the Road-Rail Resolution is placed before it.

Dr. Ziauddin Ahmad : Will Government postpone taking any action before this Resolution has been passed by the Assembly ?

The Honourable Sir Frank Noyce : I do not understand what my Honourable friend means by " any action ".

SPEECH OF MR. KHAITAN ON NON-BUSINESS LIKE RUNNING OF RAILWAYS.

788. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the speech of Mr. Khaitan at Calcutta on the 23rd July and reproduced in the *Indian Express* of the 24th on non-business like running of railways ;
- (b) whether they have taken or will take note of the criticisms and suggestions thereon ; and
- (c) what their conclusions thereon are ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). I would refer the Honourable Member to the Press Note No. 492, dated the 4th July, 1936, issued by the Government of India's Bureau of Public Information, a copy of which I am placing on the table.

No. 492.

BUREAU OF PUBLIC INFORMATION.

HOME DEPARTMENT.

GOVERNMENT OF INDIA.

Simla, the 4th July, 1936.

PRESS NOTE.

Recent press comments would appear to show that the substantial decrease in the working expenses of State-owned Railways during the last 5 years has not been fully appreciated. It may not be generally known that whereas there has been an increase of about 5,000 miles in the mileage of Railways during the last 15 years, the staff today is less by 55,000 than 15 years ago. This has only been made possible by the enforcement of economies in every sphere of railway working and the greater utilization of automatic devices.

Mistaken impressions about the efficiency of the State-owned Railways have, it is believed, arisen because of the practice of publishing statistics (a) for all railways, (b) for all Class I railways, which include H. E. the Nizam's State Railway and the Jodhpur Railway, and (c) for State-owned Railways.

It should be clearly realised that the only system over which the Railway Board exercises control of expenditure is the State-owned Railways. This system consists of State-managed railways, and such railways as the B. N., B. B. and C. I., etc., which, though owned by the State, are managed by companies under contract.

Difficulties are often experienced in comparing annual statistics, because of changes in methods of accountancy. For example, the value of scrap material sold was at one time credited to receipts, and at another time against working expenses. Such variations have not been allowed for in calculating the returns here given.

An examination of these returns for *State-owned Railways only* may be of interest. As a result of sustained efforts working expenses were reduced between 1929-30 and 1933-34 by the sum of Rs. 6½ crores.

These are the annual figures of working expenses for State-owned Railways, excluding the effect of the cut in pay (which was in operation for only part of the period) :

	Crores of					
	Rs.					
1929-30	55.59
1930-31	56.05
1931-32	49.89
1932-33	49.82
1933-34	49.38
1934-35	50.36

The achievements of the Railways in reducing expenditure can only be properly appreciated when these figures are read in conjunction with those for total traffic

receipts. Accordingly these are the two sets of figures, as accurately comparable as is possible :

						Total Traffic Receipts. (In crores.)	Working Expenses. (In crores.)
						Rs.	Rs.
1929-30	..	..	..	..	..	1,02.70	55.59
1930-31	..	..	..	..	..	95.10	56.05
1931-32	..	..	..	..	..	86.63	49.89
1932-33	..	..	..	..	..	84.43	49.82
1933-34	..	..	..	..	..	86.63	49.38
1934-35	..	..	..	..	..	90.20	50.36

A study of these figures should go a long way to meet the charges which have been made against railways in certain quarters that they have done little to reduce expenditure, especially if that criticism is incorrectly based on all-India Railway statistics. A striking fact is that although earnings between 1933-34 and 1934-35 appreciated by Rs. 3.57 crores, working expenses showed the small advance of Rs. 98 lakhs or 28 per cent. of the additional gross earnings. Of this amount between 50 and 75 lakhs were due to normal increments to staff.

It has not been simple to effect this economy. Much has been done in the way of revising tariffs and cuttings overhead expenses, but inevitably there has had to be a severe curtailment of staff.

There has been much misunderstanding about this form of economy. The position cannot be more clearly and impartially outlined, than was done by the Pope Committee, which reported in 1933 on methods for obtaining efficiency and economy on Indian Railways. They point out that the cost of staff constituted 73 per cent. of working expenses.

The Committee, in dealing with "Retrenchment", emphasize this figure and state :

"Every operation which is eliminated, or more economically carried out, almost invariably means that less staff is required.

"The figures above illustrate that one of the main avenues of economy is reduction in personnel.

".....the Committee wish to point out that the fewer the difficulties in disposing of surplus staff, the greater the incentive to railway officers to examine their organization with a view to an economic complement of personnel being maintained."

Today the State-owned Railways have less staff than in 1920-21. Between 1929-30 and 1934-35 there was the large reduction in staff of about 114,000. Everything possible is being done for the men who have had to suffer, the railways' great regret being that trade conditions have made this action obligatory.

This is a table of the open line mileage in various years with the staff operating it, which illustrates the position :

						Mileage.	Staff.
1920-21	..	..	..	..	..	26,652	701,688
1929-30	..	..	..	..	..	30,878	759,966
1934-35	..	..	..	..	..	31,619	646,218

In other words, while during the last fifteen years, the mileage has increased by 4,967 miles, the numbers employed have fallen by 55,470.

One proof of the efficiency or otherwise of the operation of a railway is the ratio of working expenses to the gross earnings. If a railway is efficient, then the more traffic the better the operating ratio, for only about one-third of the working expenses

depend directly on the traffic carried. On the other hand, if there is a fall in traffic, naturally the ratio of working expenses tend to rise.

The operating ratio for the past 5 years has been as follows :

						Operating Ratio.
1930-31	..	..	..	..	..	57.2
1931-32	..	..	..	..	..	56.9
1932-33	..	..	..	..	..	56.7
1933-34	..	..	..	..	..	55.8
1934-35	..	..	..	..	..	54.7

If these figures are compared with the figures for total traffic receipts it will be seen that, despite fluctuations in these, there has been a steady decline in the operating ratio.

A comparison of India's railway operating ratio with that of other countries shows that this is the best for any large railway system in the world. It must be realised, however, that the operating ratio in two countries is not strictly comparable, as conditions may vary very considerably. The operating ratio is affected by the rates of wages paid. It is also affected by the rates and fares charged. High rates and fares and a low salary bill should give a good operating ratio. Low rates and fares and a high salary bill would have exactly the opposite effect.

Though India may not pay such high salaries as some other countries of the world, her rates and fares are, with one or two exceptions, the lowest in the world. All, therefore, that can be concluded from the comparatively low operating ratio of India's railways is that they are not far, if any distance, behind other railways of the world in efficiency.

An attempt to detail the numerous methods by which State-owned Railways have succeeded in reducing their expenditure would occupy too much space. The figures here given should, however, be sufficient proof that the search after economies on the part of Indian railways has met with a considerable measure of success. Everything possible, consistent with safety and efficiency, is being done to further reduce expenditure.

Another important way in which State-owned Railways have managed to economise is in reduction in stores balances. Here is a table for stores balances in different years :

						Crores of Rs.
1924-25	..	..	..	..	..	17.09
1929-30	..	..	..	..	..	16.95
1930-31	..	..	..	..	..	15.21
1931-32	..	..	..	..	..	13.06
1932-33	..	..	..	..	..	12.10
1933-34	..	..	..	..	..	10.18
1934-35	..	..	..	..	..	9.34

Stores balances are carried on capital account on which interest has to be paid. It will, therefore, be seen that the reduction affected means a saving in the interest on Rs. 7.75 crores.

ANTI-INDIAN AGITATION AND BOYCOTT OF INDIAN MALAYALEES IN CEYLON.

789. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to the anti-Indian agitation and boycott of Indians and especially of Malayalees in Ceylon ;

- (b) whether their attention has been drawn to an article in the *Times of Ceylon*, dated the 12th June and the leading article 'The multiplication of Misfits' of the *Times of Ceylon*, of the 12th June and the leading article of the *Hindu* of the 4th May, on the 'Indo-Ceylon Trade Relations' and an appeal to Indian M. L. As. on the plight of Indian Malayalees in Ceylon; and an article 'Indians to be repatriated from Ceylon from the *Swarajya* of the 19th May';
- (c) whether they have investigated or propose to investigate the facts and allegations contained therein; and
- (d) what action they have taken or propose to take to vindicate the just and legitimate rights of Indians in Ceylon?

Sir Girja Shankar Bajpai : (a) and (b). Yes.

(c) and (d). The attention of the Honourable Member is invited to the reply given by me to his question No. 776 earlier this morning.

Dr. Ziauddin Ahmad : Can an Indian who resided in Ceylon for six months and over be naturalised as a Ceylonese subject?

Sir Girja Shankar Bajpai : I do not think so. I think they have a naturalisation law which provides for residence of something like five years.

Dr. Ziauddin Ahmad : What is the minimum term of residence in India?

Sir Girja Shankar Bajpai : I do not think that it arises out of this question, as to what the minimum term in India is for naturalisation.

Dr. Ziauddin Ahmad : We should like to know for comparison, because if it is five years there and we have a shorter period, Government ought to press upon the Ceylonese Government to reduce the period.

Sir Girja Shankar Bajpai : If my Honourable friend will be good enough to put down a question, I hope to be able to provide him with the material for comparison.

WITHHOLDING OF A TELEGRAM REGARDING MOTION FOR ADJOURNMENT TO DISCUSS THE CONDUCT OF THE GOVERNOR OF BIHAR FOR HIS TAKING ACTIVE PART IN ORGANISING PARTIES TO FIGHT THE ELECTIONS.

790. ***Mr. Satya Narayan Sinha :** Will Government be pleased to state why the press telegram sent by me on the 14th August, 1936, regarding the adjournment motion tabled by me to discuss the conduct of His Excellency the Governor of Bihar for his taking active part in organising parties to fight the election, was withheld by the Telegraph Office, Laheriasarai, District Darbhanga?

The Honourable Sir Frank Noyce : The transmission of the telegram in question was stopped in pursuance of the provisions of Rule 15 of the Indian Telegraph Rules.

Mr. Mohan Lal Saksena : Sir, before you go on to the next list, I have a submission to make for your consideration. When I asked question No. 643 on the 28th September last, the Honourable the Law Member said that no information had been received and so he put it to you whether he should answer that question and you were pleased to rule that the question need not be answered. But afterwards it was found that the information was available but it had not been brought to the notice of the Law Member. I submit that you may now allow question No. 643 to be put.

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend is misquoting me. All that I then said was that I had not only answered these parts (a) and (b) but other parts also in reply to a short notice question previously, and the Chair ruled that in view of that this question No. 643 need not be answered. Mr. Saksena now wants to put a few more supplementaries on the same question.

Mr. President (The Honourable Sir Abdur Rahim) : The question cannot be asked now.

Mr. Mohan Lal Saksena : The answer to the short notice question was that the Local Governments had not taken any decision.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot have any argument on that.

SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN IN DELHI AND THE CENTRALLY ADMINISTERED AREAS.

791. ***Mr. M. Ananthasayanam Ayyangar :** (a) What steps are being taken by Government to suppress immoral traffic in women in Delhi and the centrally administered areas ?

(b) Was any commission or committee appointed to study the problem in India, and if so, did it submit a report ? If not, why not ?

(c) Have any attempts been made to give the fallen women any vocational training in music and other fine arts, or for any other occupation, so as to provide them with a decent employment ?

(d) Are Government aware that there are whole streets of prostitutes in Delhi city, and why measures have not been introduced on the lines of the Brothels Act, Madras, to check prostitution ?

The Honourable Sir Henry Craik : (a) There is believed to be no considerable immoral traffic in women in the Centrally Administered Areas except in Delhi. The question of applying the Punjab Suppression of Immoral Traffic Act, which has already been passed to the Delhi Province is now under consideration. Meanwhile the police are keeping as careful a watch as possible on such local Ashrams as are considered to be of doubtful reputation.

(b) No. There are however non-official organisations which have made a study of the problem.

(c) Not by Government. This appears to be more a matter for private or municipal enterprise than Government action.

(d) The residence of prostitutes has been practically confined to Chawri Bazar and Mandi Pan by the action of the Municipal Committee.

Mr. Lalchand Navalrai : How is it that in spite of orders having been passed long ago that these women should be removed from particular streets, no action has yet been taken ?

The Honourable Sir Henry Craik : From 1912 onwards the Delhi Municipality adopted the policy of restricting the residence of prostitutes to certain quarters of the city. From time to time various areas have been cleared of prostitutes and since 1923, their residence has been practically confined to Chowri Bazar and Mandi Pan. In 1930 the Committee decided to exclude Chowri Bazar also from the area in which prostitutes should be allowed to reside and a large number were forced to move elsewhere. But restrictions have been relaxed on certain prostitutes who were able to prove successfully in the civil courts that they were public singers and that for some reason or other they should not be included with the definition of public prostitutes. Similarly a large number who were turned out of Chowri Bazar moved into the neighbouring *mahallas* and as a result of the public nuisance thus caused, restrictions on their living in Chowri Bazar have been relaxed.

Mr. N. M. Joshi : As the Delhi Municipality have taken steps to restrict the residence of prostitutes to certain parts of Delhi City, have they also taken similar steps to restrict the residence of those people, who go to these prostitutes, in certain parts of the city ?

The Honourable Sir Henry Craik : I must have notice of that question.

Pandit Lakshmi Kanta Maitra : Has any non-official public body made any recommendation to Government about this ?

The Honourable Sir Henry Craik : Not that I am aware of. If the Honourable Member will put down a question I will try to find out.

Mr. M. Ananthasayanam Ayyangar : May I know if an expert is being brought out from England to study the problem of immoral traffic in India ?

The Honourable Sir Henry Craik : Not that I am aware of.

Mr. K. Ahmed : In view of the fact that these streets were declared to be public thoroughfares will the Government be pleased to state how could it be possible for these objectionable women to live in these streets after the declaration was made ?

The Honourable Sir Henry Craik : That is a legal conundrum which I am not qualified to answer.

PROGRESS MADE IN THE VILLAGE UPLIFT WORK IN THE CENTRALLY ADMINISTERED AREAS.

792. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state what progress has been made in village uplift work in the centrally administered areas ? In how many villages in the centrally administered areas has the Government village scheme been working ?

(b) Will Government state the total number of persons engaged by them under the scheme and the total amount of money spent on their

(c) Will Government also state how many persons, besides Government servants, are working honorarily under the scheme ?

(d) Are Government prepared to issue instructions that the paid workers under the scheme should not take any active part in the forthcoming elections to the legislatures ?

The Honourable Sir James Grigg : (a), (b) and (c). I would invite the Honourable Member's attention to my reply to Mr. Asaf Ali's question No. 345 on the 14th September, 1936.

(d) I have nothing to add to the answer which I gave to part (e) of the Honourable Member's question No. 559 on the 20th September, 1935.

Prof. N. G. Ranga : How soon will this report on the distribution and utilisation of the rural development grant be placed on the table of this House ?

The Honourable Sir James Grigg : It is being printed now and I hope to be able to present it in a few days.

Mr. Mohan Lal Saksena : With reference to part (d), may I know if the Honourable Member is aware that in several provinces this agency for rural uplift work is being used for helping certain parties ?

The Honourable Sir James Grigg : I am aware that the Honourable Member has made allegations to this effect, but I am not aware that they are true.

Mr. Mohan Lal Saksena : Has the Honourable Member made any inquiries ?

The Honourable Sir James Grigg : No.

Mr. Lalchand Navalrai : May I know if there is any arrangement made, in this rural uplift scheme, for sanitation of cattle sheds in villages ?

The Honourable Sir James Grigg : If the Honourable Member will wait for a few days longer, I shall be able to lay on the table a complete progress report on the work undertaken under last year's grant.

Dr. Ziauddin Ahmad : Will the Honourable Member give us an opportunity to discuss the report in this House ?

The Honourable Sir James Grigg : No.

Dr. Ziauddin Ahmad : Then what is the use of circulating it ?

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

793. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will the Honourable the Law Member be pleased to state :

- (a) whether the entire sentence of two years passed on the accused, Mr. Ratnasabhapathi Gounder in Sessions case 41 of 1935 of Coimbatore (Madras Presidency) was remitted by the Government of India in or about March, 1936, acting on the petition of the accused ;

- (b) whether the Government of Madras, acting on the same petition, had already remitted a portion of the sentence but declined to remit the entire sentence ;
- (c) whether the accused has been convicted by the Sessions Judge, Coimbatore, on the unanimous verdict of guilty pronounced by the jury ;
- (d) whether the accused appealed to the High Court against this conviction, and the High Court dismissed the appeal ;
- (e) whether the Local Government applied to the High Court for an enhancement of the sentence passed by the Sessions Judge on the ground of its inadequacy ;
- (f) whether a few weeks later, the Madras Government acting on the petition of the accused, remitted a portion of the sentence and retained a portion of it, and the grounds on which and the reasons for which this order was passed ; and
- (g) on what grounds and for what reasons the Government of India remitted the entire sentence ?

The Honourable Sir Nripendra Sircar : (a) The Governor General in Council remitted the balance of sentence outstanding at the time.

(b), (c), (d) and (e). The replies are in the affirmative.

(f) The reply to the first part is in the affirmative. As regards the second part, I am not in possession of the information.

(g) I would refer the Honourable Member to the answer I have already given to part (c) of question No. 419.

Mr. M. Ananthasayanam Ayyangar : Was the remaining period of sentence reduced on the ground that it was erroneous or was it reduced as an act of clemency ?

The Honourable Sir Nripendra Sircar : Sir, I answered two sets of questions on this last time, and I gave the answer that I am not prepared to disclose, as being opposed to the public interest, the grounds on which the Governor General in Council uses his discretionary power.

Mr. Lalchand Navalrai : May I know if it is the policy of Government that when the High Courts do not reduce the sentence on appeal, the Local Governments and the Government of India should do it ?

The Honourable Sir Nripendra Sircar : I answered that on the last occasion. There is not and cannot be such a policy, and no general policy can be laid down as to the circumstances in which the Governor General in Council exercises powers under section 401. There is no hard and fast rule.

Mr. Lalchand Navalrai : May I know if where the sentences have not been reduced by the High Court, the Government can do it on special grounds ?

The Honourable Sir Nripendra Sircar : If the Honourable Member will kindly read section 401 of the Criminal Procedure Code once more.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE
COIMBATORE DISTRICT.

794. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether the Local Government was consulted by the Government of India with regard to the total remission of the sentence on Mr. Ratnasabhpathi Gounder of Coimbatore ;
- (b) if the answer to part (a) be in the negative, why this was not done ;
- (c) if the answer to part (a) be in the affirmative, whether the Local Government favoured or disfavoured the total remission ;
- (d) with what remarks the Local Government forwarded the petition of the accused to the Government of India ;
- (e) when the petition was received by the Government of India and when it was disposed of ;
- (f) subsequent to the partial remission by the Local Government, whether the accused urged any reasons why the entire sentence should be remitted ; and
- (g) whether there are any precedents for this action of the Government of India during recent years, and, if so, what those precedents are ?

The Honourable Sir Nripendra Sircar : (a) No.

(b) The Governor General in Council did not consider it necessary.

(c) Does not arise.

(d) The Local Government forwarded it for the orders of the Governor General in Council with the remark that they had no recommendation to make on behalf of the petitioner.

(e) The petition was received on the 23rd March, 1936, and disposed of on the 1st of April, 1936.

(f) The grounds urged by the accused were stated in the petition which has been published in newspapers.

(g) If by precedents the Honourable Member means action taken by the Government of India to remit sentences under section 401, the answer is that such action has been taken on many occasions, but as the facts of each case are different it is scarcely possible to quote any of them as precedents.

Mr. M. Ananthasayanam Ayyangar : May I know if there have been any cases other than political cases, where sentences of two years have been reviewed in recent years ?

The Honourable Sir Nripendra Sircar : When the Governor General in Council exercises powers under section 401, it may not recognise a case as being political or non-political.

Mr. M. Ananthasayanam Ayyangar : As a matter of fact, whether political or non-political, have there been any cases in which the punishment has been only for two years which have been reviewed under this section ?

The Honourable Sir Nripendra Sircar : I want to know the definition of a political case.

Mr. M. Ananthasayanam Ayyangar : Offences against the State.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE
COIMBATORE DISTRICT.

795. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) what the interval was between the orders of the Local Government and the Government of India in regard to the remission of sentence on Mr. Ratnasabhpathi of Coimbatore ;
- (b) whether the High Court of Madras, which confirmed the sentence on appeal or the trial judge was consulted by the Government of India as contemplated in clause 2 of section 401, Criminal Procedure Code ;
- (c) if the answer to part (b) be in the negative, the reasons for the omission to consult the High Court ;
- (d) whether the Government of India perused the appellate judgment of the High Court confirming the conviction and the sentence ;
- (e) if the answer to part (d) be in the affirmative, whether the Government of India found any indication in the judgment that the conviction was other than just and proper ;
- (f) if the answer to part (d) be in the negative, why it was considered unnecessary to peruse the appellate judgment before granting the remission ; and
- (g) whether it is usual or exceptional to consult the trial judge and the appellate Court before granting the remission on the petition of the convicted person ?

The Honourable Sir Nripendra Sircar : (a) Thirteen days.

(b) and (c). I would refer the Honourable Member to the answer I gave to part (e) of question No. 419.

(d) Yes.

(e) The decision was based on the records of the case including this judgment.

(f) Does not arise.

(g) Quite exceptional.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE
COIMBATORE DISTRICT.

796. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether it is a fact that the petition of the accused asking for a remission of the sentence contained the allegations :
 - (i) that the accused was a prominent and influential member of the Justice Party ;

- (ii) that the criminal case was engineered against him by the local congressmen to discredit him and through him the Justice Party ;
- (iii) that the Brahmin Police Inspector who investigated the case bolstered the criminal charge in collusion with the local congressmen ;
- (iv) that the Police Inspector as well as the local congressmen put pressure on the jurymen to return a verdict of guilty ; and
- (v) that the jurymen gave their verdict on account of political and communal considerations ;
- (b) if the answer to the above be in the affirmative, whether the Government of India attempted to verify these allegations and with what result ;
- (c) if there was no attempt to verify these allegations what the reason was for the omission ;
- (d) whether the Government of India gave credence to any of the aforesaid allegations ?

The Honourable Sir Nripendra Sircar : (a) The petition has been published in the newspapers.

(b), (c) and (d). The Governor General in Council paid no attention to the allegations made in it as there was no legal proof in support of them.

Mr. M. Ananthasayanam Ayyangar : If none of the grounds stated in the petition, which have been referred to in this question, induced the Government to alter the sentence, may I know what were the grounds which induced them and whether it was due to the influence or intervention of any extraneous person that the sentence was reduced ?

The Honourable Sir Nripendra Sircar : I repeat for the fourth time that the Government are not prepared to disclose, as being opposed to public interest, the grounds on which the powers under section 401 were exercised.

Mr. President (The Honourable Sir Abdur Rahim) : The matter has been already fully discussed. Next question.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

797. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether they are aware that what purports to be a true copy of the petition, submitted by Mr. Ratnasabhapathi Gounder for the remission of the sentence, was published in the *Justice* newspaper, Madras, on the 10th April, 1936 ;
- (b) whether that is a true copy of the petition submitted to the Government of India and the Local Government ;

- (c) whether they are aware that an *ex*-Advocate General and an *ex*-Law Member of the Government of Madras (Mr. T. R. Venkatarama Sastriar) and two *ex*-Judges of the Madras High Court (Mr. V. V. Srinivasa Iyengar and Mr. C. V. Visvanatha Sastri) have contributed to the Madras newspapers in April-May, 1936, articles which suggest that the remission of the sentence was not only claimed for but granted on political considerations ;
- (d) whether the *Hindu* (Madras) referred to this matter editorially in its issue of the 11th April, 1936, and asked for a full explanation from Government ;
- (e) whether the *Madras Mail* editorially referred to this matter in its issue of April 20, 1936, June 18, 1936, and July 16, 1936 and suggested that the suspicion of political influence behind the remission should be dispelled by a detailed statement by Government ; and
- (f) why no statement was issued till now to allay public suspicion, and whether they are prepared now to make a statement meeting the several criticisms which have already appeared in the Press ?

The Honourable Sir Nripendra Sircar : (a) and (c) to (e). The replies are in the affirmative.

(b) I have not verified this.

(f) Government do not consider it necessary to issue such a statement.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

798. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyanurti) : Will Government be pleased to state :

- (a) whether it is a fact that after the appellate judgment was delivered in the middle of February, 1936, the accused Mr. Ratnasabhpathi Gounder did not surrender to undergo the sentence but was absconding until his sentence was wholly remitted by the Government of India ;
- (b) why the petition was considered by the Government of India when the accused was absconding ;
- (c) whether it is a fact that at the end of March, 1936 the surety of the accused Ratnasabhpathi Gounder stated in an affidavit filed in the Sessions Court, Coimbatore, that Mr. Ratnasabhpathi Gounder was just then in Delhi to make representations to the authorities regarding the remission of his sentence ;
- (d) if the answer be in the affirmative, whether this information was verified by the authorities for not arresting the accused as the sentence had been neither suspended nor fully remitted by then ;

- (e) whether it is a fact that the accused was in Delhi at the time his petition for remission was being considered by the Government of India ;
- (f) whether he by himself or through any other person made any representations to Government regarding the remission of the sentence after submitting his petition ; and
- (g) whether any Honourable Member of this House interested himself in obtaining the remission from the Government of India by speaking to any member thereof ?

The Honourable Sir Nripendra Sircar : (a), (c) and (e). Government have no information.

(b) and (d). Do not arise.

(f) and (g). I would refer the Honourable Member to the answer I gave to part (i) of question No. 419.

Mr. M. Ananthasayanam Ayyangar : In answer to that question the Honourable Member said that certain persons, even a Member of this Honourable House asked him to interfere. May I know whether the interference was to the effect that the order should be set aside or merely that the matter should be looked into ?

The Honourable Sir Nripendra Sircar : A Congress Member wanted that no mercy should be shown : a non-Congress Member wanted mercy to be shown. No attention was paid to either. The records are not here.

Mr. M. Ananthasayanam Ayyangar : May I know who the Non-Congress Member was ?

The Honourable Sir Nripendra Sircar : Certainly not.

Mr. M. Ananthasayanam Ayyangar : Do the Government in considering petitions under section 401 take into consideration representations by other persons who may be related or otherwise who seek to bring influence to bear on the Government ?

The Honourable Sir Nripendra Sircar : There again, there is no general rule.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

799. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether they are aware that the news of the total remission of the sentence on Mr. Ratnasabhapathi Gounder granted by them was known in Madras on 30th March, and was published in the *Madras Mail* on the 31st March, 1936, some days before the Local Government came to know of it ;
- (b) whether it is a fact that the accused telegraphed this news from Delhi to his advocate in Madras and to his friends in Coimbatore, and that the telegram was shown to some of the Press correspondents in Madras ;

(c) in view of this leakage of information, before the order was communicated to the accused by or through the Local Government, whether the Government of India are prepared to cause enquiries to be made as to how the leakage occurred ; and

(d) when and how the order of the Government of India was communicated to the accused, and to the Local Government—by letter or telegram, and the date of same ?

The Honourable Sir Nripendra Sircar : (a) I am prepared to accept the Honourable Member's statement that some news on the subject was published in the *Madras Mail* on March 31st. I cannot be expected to know when the news was known to people in Madras.

(b) Government have no information.

(c) Government do not consider the matter to be of sufficient importance to justify an inquiry.

(d) The orders were telegraphed to the Local Government on the 1st April, 1936. Government are not aware how and when the Local Government communicated the orders to the accused.

Mr. M. Ananthasayanam Ayyangar : May I know then how in the opinion of the Government the information leaked out, so that the matter came out in the *Madras Mail* the previous day ?

The Honourable Sir Nripendra Sircar : I think my Honourable friend should inquire from the man who got the information : we do not know anything about it : we tried to keep it secret, we did not succeed.

Mr. M. Ananthasayanam Ayyangar : Why does not the Government propose to take any action in this matter ?

The Honourable Sir Nripendra Sircar : Against whom ? If my Honourable friend will hand over the accused, I will take action.

Dr. Ziauddin Ahmad : Did Government make any enquiries into the reason of this leakage ?

The Honourable Sir Nripendra Sircar : No.

Mr. M. Ananthasayanam Ayyangar : Did any Member of the Government write to any individual who sought to intervene in this matter and whose recommendation was ultimately accepted ? What was the source from which the matter leaked out to the press ?

The Honourable Sir Nripendra Sircar : I cannot possibly explain how it leaked out. It could not have been through any Member of Government.

Mr. Mohan Lal Saksena : Why did not Government make any enquiries into the matter ?

The Honourable Sir Nripendra Sircar : Because it was too trivial.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

800. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) if the remission of the sentence on Mr. Ratnasabhapathi Gounder by the Government of India was simply an act

- of clemency, and what the special considerations for showing clemency to the accused were ;
- (b) which of the Honourable Members of the Government of India had the order of remission passed or approved ;
 - (c) whether the matter went before the late Viceroy as has been suggested in the *Justice* newspaper ;
 - (d) whether they have noticed the criticism in the articles which appeared in the Madras English dailies in April 1936-May 1936 that the total remission of the sentence amounts to flouting the unanimous verdict of the jury and the judgment of the High Court in fact, and is tantamount to violating the constitution, and whether, the Government of India propose to meet this criticism in the public interest ;
 - (e) whether there are any precedents for the grant of a remission which has the effect of nullifying the unanimous verdict of the jury and the judgment of the High Court ; and
 - (f) whether there are any cases, and if so, how many, during the last three years when the Government of India remitted the entire sentence on the representation of the accused that he was innocent and wrongly convicted ?

The Honourable Sir Nripendra Sircar : (a) I have already replied to a similar question.

(b) and (c). It is against the public interest to state which individual Members of the Government expressed views which issued as the orders of the Government.

(d) Yes ; but Government do not agree with this view and do not consider it necessary to say anything about the merits of this criticism.

(e) I believe the answer to be yes ; but it would be a waste of labour to trace them.

(f) Yes ; there have been four such cases during 1934, 1935 and 1936.

†801*.

MONOPOLY FOR THE SUPPLY OF PAINTS ENJOYED BY CERTAIN FIRMS.

802. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the two European firms of Jenson and Nicholson and the Shalimar Paint Works were enjoying a monopoly contract for the supply of the Red Oxide for over ten years ? If not, will Government be pleased to state the year when the two firms of Jenson and Nicholson and the Shalimar Paint Works were given the contract for the supply of Red Oxide Paint for the first time and also to state the number of years the contract for the supply of this paint was given consecutively to the two European firms, mentioning the rates ?

†This question was withdrawn by the questioner.

(b) Is it a fact that the contract for the supply of the Red Oxide Paint was only given to Messrs. Murarka Paint and Varnish Works, an Indian firm, in 1934-35, and that the supply was found to be uniformly satisfactory ?

(c) Is it a fact that the contract for supply of the Red Oxide Paint was given for the year 1935-36 to the other big Indian firm, namely Napier Paint Works, run with Indian capital and Indian management ? Is it a fact that the supply of the paint from that Indian firm was also found satisfactory ?

(d) Is it a fact that a supplementary tender No. M.-7344, was called within ten days and the contract was given to the European firms of Messrs. Jenson and Nicholson and the Shalimar Paint Works ?

(e) Will Government be pleased to state the rate quoted by the firm of Jenson and Nicholson and the Shalimar Paint Works for the supply of the Red Oxide Paint against items Nos. 19 and 20 in the tender No. M.-6470 opened on the 29th October, 1935 ?

(f) Will Government be pleased to state the rates quoted by those very firms for the supply of that very Red Oxide Paint in their tender No. M.-7344, items No. 1A and 3B opened on the 26th November, 1935 ?

(g) Will Government be pleased to state whether the Red Oxide Paint accepted by the Indian Stores Department from Jenson and Nicholson and the Shalimar Paint Works was the same in quality and specification as the Red Oxide Paint which was quoted by those firms in the tender No. M.-6470 ? If not, in what respects do the two paints, i.e., the one quoted in the previous tender and the one that has been accepted in tender No. M.-7344, differ ?

(h) If there is no difference in quality and specification, why were the two European firms of Jenson and Nicholson and the Shalimar Paint Works given the chance of quoting the same paints at a lower rate in the supplementary tender ?

The Honourable Sir Frank Noyce : With your permission, Sir, I propose to reply to questions Nos. 802 to 810 together.

Information has been called for and replies will be placed on the table of the House in due course.

Pandit Lakshmi Kanta Maitra : Will this information be laid on the table of the House in the course of this Session ?

The Honourable Sir Frank Noyce : I am unable to say. If my Honourable friend will look at the questions, he will see that an immense amount of detail has to be collected and I am unable to say when the information will be furnished.

SUPPLEMENTARY TENDER FOR THE SUPPLY OF PAINTS INVITED BY THE INDIAN STORES DEPARTMENT.

†803. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that items 16 and 17 in the original tender No. M.-6470 opened on the 29th October, 1935, for Indian Stores Department Specification GP/46 and 146, and that on 9th November, 1935 again the same qualities for the

†For answer to this question, see answer to question No. 802.

second time were invited in the supplementary tender No. 7344 under items Nos. 2A and 2B ?

(b) Is it a fact that the Indian Stores Department Specification No. GP/46 stipulates :

“ The pigment is to contain not less than 50 per cent. of a natural or artificial iron oxide, the balance is to be Barytes. The Ferric Oxide content of the whole pigment is to be not less than 45 per cent. The pigment is to be free from acid and water soluble iron salts. The total matter soluble in water is not to exceed 0.3 per cent. ” ?

(c) Is it a fact that items 1 and 3 in the supplementary tender No. 7344 are of one and the same Specification No. GP/73 and 173, as tendered for against the items Nos. 19 and 20, respectively, in the original tender No. M.-6470 opened on the 29th October, 1935 ?

(d) Is it a fact that the Indian Stores Department Specification No. G.P./73 stipulates :

“ The pigment is to contain not less than 50 per cent. of a natural or artificial iron oxide, the balance is to be Barytes. The Ferric Oxide content of the whole pigment is to be not less than 35 per cent. The pigment is to be free from acid and water soluble iron salts. The total matter soluble in water is not to exceed 0.8 per cent. ” ?

(e) Will Government be pleased to state the reasons why the manufacturers for the second time within ten days were asked to quote for exactly the same quality of stuff in the supplementary tender No. 7344 for which the quotations were already taken in the original tender No. M.-6470 ?

(f) Is it a fact that the supplementary tender was called within ten days from the opening of the original tender and that the European firms—Messrs. Jenson and Nicholson and the Shalimar Paint Works, after knowing the rates of the lowest tenderer, namely, Murarka Paint and Varnish Works, Limited, quoted still lower in the supplementary tender ?

**TENDERS INVITED BY THE INDIAN STORES DEPARTMENT, CALCUTTA CIRCLE,
FOR PAINT READYMIXED LEAD WHITE.**

†804. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that Indian Stores Department, Calcutta Circle, invited tender No. PN6999/S for 100 cwt. Paint Readymixed Lead White as per sample to be seen at their office due on 22nd July, 1935. *vide Exchange Gazette*, dated 26th July, 1935 ?

(b) Is it a fact that the quotation of the Indian firm, the Murarka Paint and Varnish Works, Limited, was found to be the lowest ?

(c) Is it a fact that Indian Stores Department, Calcutta, cancelling the tender No. PN6999/S, again invited for the second time tender No. PN6999/S/E, due on 20th September, 1935, as per *Exchange Gazette*, dated 19th September, 1935, for 100 cwt. Paint Readymixed Lead White as per specification :

“ The pigment is to contain 45 per cent. of Antimony White, 5 per cent. Zinc White and balance to be Barytes, etc. ” ?

(d) Is it a fact that again the quotation of the Indian firm, the Murarka Paint and Varnish Works, Limited, for the second time was found to be the lowest for ready stock ?

(e) Is it a fact that this tender for the second time, in which the Indian manufacturer's offer happened to be the lowest, was cancelled and a fresh tender for the third time was again invited by the Indian Stores Department, Calcutta Circle, as per tender No. PN6999|S|E—due on 12th December, 1935, as per *Exchange Gazette*, dated 10th December, 1935 ?

(f) Will Government be pleased to state the reasons for cancelling tenders in which the offers of the Indian manufacturers were lowest for ready stock and calling fresh tenders for the same article for over three times ?

(g) Is it a fact that some time was allowed to elapse by cancelling and calling for fresh tenders for over three times and are Government aware that the European manufacturers were able to import the necessary raw materials during that time and offer after knowing the quotations of the Indian manufacturers ?

(h) Will Government be pleased to state whether in the case of the lowest quotation of the European firms, such procedure was ever adopted by the Indian Stores Department ? If so, will Government be pleased to lay a list of such European firms on the table of the House ? If not, why not ?

(i) Are Government prepared to enquire into the matter and lay a copy of the report on the table of the House ? If not, why not ?

PURCHASE OF STORES BY INVITING TENDERS BY THE INDIAN STORES DEPARTMENT.

†805. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact that the Indian Stores Department gather together and combine the approximate requirements during a year advised by various indentors and include the same in the annual tenders, giving the benefit of cheaper prices for bulk purchases to the small indentors as well ?

(b) Is it a fact that the Indian Stores Department is to make purchases of stores for the public service by inviting tenders for the supply of all articles ?

(c) Is it a fact that in case of not calling for tenders, the Indian Stores Department has to record sufficient reasons indicating that it is not in the public interest to call for tenders ?

(d) Is it a fact that the Indian Stores Department, as per standard sample scheme registered standard samples from the manufacturers and suppliers after test against the Indian Stores Department specifications, and the results of such tests constitute a permanent basis of reference when they are invited to tender for Indian Stores Department orders and no further sample for such articles will ever be required against the tender for acceptance ?

(e) Is it a fact that the Indian Stores Department is specially authorised to allow a limited degree of preference in respect of price to articles produced or manufactured in India, either wholly or in part ?

(f) Is it a fact that the contracts given on Rate Contract basis the Indian Stores Department give an idea of approximate quantities required during the year to the manufacturers or suppliers ?

(g) Is it a fact that the firms holding the Indian Stores Department Rate Contract for the items are asked to supply over and above the estimated quantity intimated to them and in case of their refusal, only fresh tenders are invited for the extra quantities ?

TENDER FOR THE SUPPLY OF PAINTS INVITED BY THE INDIAN STORES DEPARTMENT.

†806. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Indian Stores Department invited annual tender No. M-6470 for the supply of paints during 1936-37, which was opened and rates quoted by the different suppliers were read out to their representatives as usual on the 29th October, 1935 ?

(b) Is it a fact that the rates quoted by the Indian manufacturer (the Murarka Paint and Varnish Works, Limited), for item No. 19 of the said tender, Gulf Red Stiff, was Rs. 9-13-0 per cwt. and item No. 20—Gulf Red Readymixed, was Rs. 12 per cwt. and also item No. 38B—Paint Black Readymixed, for underframes and wagon bodies was Rs. 2-4-0 per gallon and found to be the lowest ?

(c) Is it a fact that after the original tender was opened on the 29th October, 1935, supplementary tender No. 7344 for the supply of only Red Oxide Paint was invited on the 9th November, 1935, i.e., just after ten days ?

(d) Is it a fact that the Indian Stores Department have been purchasing Gulf Red Oxide to Indian Stores Department Specification No. GP/73 continually for several years for painting of the railway wagons ?

(e) Is it a fact that during 1932-33, 1933-34, and 1934-35 the quantities drawn were 4,425 cwt., 3,372 cwt., and 3,540 cwt. respectively and found uniformly satisfactory ?

TENDERS FOR RED OXIDE PAINT ACCEPTED BY THE INDIAN STORES DEPARTMENT.

†807. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state whether the Red Oxide Paint accepted by the Indian Stores Department in favour of Messrs. Jenson and Nicholsons and Shalimars against the supplementary tender No. 7344 have ever undergone any practical exposure test with a single coat on the bare steel plate to last three years ? If so, what are the results of such tests ?

(b) Will Government be pleased to state whether this Red Oxide Paint accepted by the Indian Stores Department against the supplementary tender No. 7344, has been purchased after three years run on service condition in traffic, as has been in the case of indigenous paint—Murarka's Special Black ? If so, with what results ?

(c) Is it a fact that the Chief Mechanical Engineer, Lillooah, in his letter No. 1176S. of 9th April, 1932 remarked that Muraco Special Black

applied on wagons are out on lines and unless these wagons were received back at the workshop for the overhaul after three years run, he could not make any recommendation ? If so, will Government be pleased to state why the same rule was not followed in case of Red Oxide Paint contract given to European Firms, Messrs. Jenson and Nicholson and Shalimars Paint Works, before purchasing any considerably large quantities ?

(d) Are Government aware that enamel Navy Green paint against Indian Stores Department tender No. H-5790 was favoured to Messrs. Jenson and Nicholson, who did not submit any sample at Rs. 4-12-0 a gallon higher than an indigenous paint, sample of which was found to satisfy the Indian Stores Department Specification ?

(e) Will Government be pleased to lay a list of the Indian firms who have been given the Indian Stores Department orders and contracts for the supply of stores without testing samples of their stuff, as has been done in the case of the European firms ? If not, why not ?

TENDER FOR PAINTS INVITED BY THE INDIAN STORES DEPARTMENT, CALCUTTA CIRCLE.

†808. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Indian Stores Department, Calcutta Circle, invited tender No. 10868/S due 14th February, 1936 :

	Gallons.
White Lead Paint Readymixed to Indian Stores Department Specification	1,800
Red Oxide Paint Readymixed to Indian Stores Department Specification	1,300
White Paint Readymixed for lettering	100 ?

(b) It is a fact that Messrs. Murarka Paint and Varnish Works, Limited, wholly an Indian concern, quoted for the said Paint :

	Per gallon.
	Rs. A. P.
White Lead Paint Readymixed to Indian Stores Department Specification (registered standard sample)	3 4 0
Red Oxide Paint Readymixed to Indian Stores Department Specification (registered standard sample)	1 14 0
White Paint Readymixed for lettering	3 15 0

(c) Is it a fact that Red Oxide Paint to Indian Stores Department Specification is purchased from the European Firm, Messrs. Jenson and Nicholson at Rs. 2-1-0 per gallon, not accepting the self-same quality at Re. 1-14-0 that was offered by the Indian concern, Murarka Paint ?

(d) Will Government be pleased to state the reasons for not accepting the lowest quotation of the Indian firm but of the European firm at a loss at annas three per gallon to the Indian Exchequer ? If not, why not ?

(e) Is it a fact that the paint readymixed for lettering is purchased from the European firm, Messrs. Hadfields, Limited, at Rs. 5-14-0 per gallon, i.e., Re. 1-15-0 per gallon higher than the indigenous paint offered by the Indian firm, Murarka Paint ?

(f) Are Government prepared to enquire into the matter and state the reasons for such preferential treatment to the European concerns ? If not, why not ?

ANNUAL CONTRACT PLACED BY THE INDIAN STORES DEPARTMENT FOR THE SUPPLY OF PAINT BLACK READYMIXED FOR UNDERFRAMES AND WAGON BODIES.

†809. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Indian Stores Department placed the annual contract No. M-6470, dated 14th March, 1936, for the supply of Paint Black Readymixed for underframes and wagon bodies at Rs. 2-4-0 per gallon during 1936-37 with the Indian firm, Messrs. the Murarka Paint and Varnish Works, Limited, Calcutta ?

(b) Is it a fact that the Government Test House, in their letter No. 842, dated 29th April, 1933, certified that this indigenous black paint for underframes and wagon bodies contained five per cent. carbon black ?

(c) Is it a fact that during the existence of the annual contract with the Indian firm, Messrs. the Murarka Paint and Varnish Works, Limited, the Indian Stores Department, Calcutta Circle, invited tenders for the supply of Paint Black Readymixed for underframes and wagon bodies :

	Gallons.
Tender No. P.N.238|V	1,400
Tender No. P.N.1298|V	1,000
Tender No. P.N.5084|V	2,000 ?

(d) Is it a fact that the Indian Stores Department, Calcutta Circle, purchased from the European firm, Messrs. Jenson and Nicholson, the Black Paint Readymixed for underframes and wagon bodies of three per cent. carbon black at Rs. 2-10-0 per gallon, *vide* orders :

No. P.N.238|V as appeared in T. J. of 14th May, 1936, for 400 gallons.
No. P.N.[238|V|1 as appeared in T. J. of 21st May, 1936, for 300 gallons.
No. P.N.[238|V|3 as appeared in T. J. of 4th June, 1936, for 350 gallons.
No. P.N.15|37|V as appeared in T. J. of 16th July, 1936, for 400 gallons.
No. P.N.1298|V as appeared in T. J. of 30th July, 1936, for 500 gallons.
No. P.N.1584|V as appeared in T. J. of 6th August, 1936, for 1,000 gallons ?

†For answer to this question, *see* answer to question No. 802.

(e) If so, will Government be pleased to state the total amount of loss involved by accepting the tender of the European firm at annas six per gallon higher than the indigenous paint of the same quality contracted for 1936-37 ?

(f) Do Government propose to enquire into the matter ? If not, why not ?

INDIGENOUS SIGNAL RED PAINT MANUFACTURED BY THE MURARKA PAINT AND VARNISH WORKS, LIMITED.

†810. *Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that Murarka's Signal Red Super "A", an indigenous Signal Red Paint, manufactured by the Murarka Paint and Varnish Works, Limited, was put to exposure test simultaneously along with Bergers' Signal Red by the North Western Railway and was found to stand satisfactorily in different climatic conditions of India, that is to say, Karachi section seaside, Sind section desert, Lahore and Peshawar section in extreme cold and heat ?

(b) Are Government aware that the North Western Railway, after the exposure test, reported this indigenous paint to be undoubtedly very good paint ?

(c) Is it a fact that the Indian Stores Department have been awarding contracts to Messrs. the Murarka Paint and Varnish Works, Limited, for this Signal Red continually for the last three years and they found this indigenous paint uniformly satisfactory and in no way inferior to the most costly English Signal Red Enamels ?

(d) Will Government be pleased to state the reasons why this indigenous paint, which has been found more durable and brilliant and economical than others by the Chief Inspector of Railways, is not being used by the other State Railways ?

(e) Is it a fact that the Indian Stores Department awarded contract for the Muraco Signal Red Super "A" against the tender No. 6470 to Messrs. the Murarka Paint and Varnish Works, Limited, at Rs. 15 per gallon ?

(f) Is it a fact that against the same tender No. 6470, wholly foreign signal red enamel has been purchased from the English stockists, Messrs. Wilkinson Heywood Clark, at Rs. 22 per gallon and Messrs. W. H. Duth and Company at Rs. 16 per gallon ?

(g) Are Government aware that by accepting the wholly European manufactured and imported article, there has been a loss to the Indian Revenue at Rs. 7 and Re. 1 per gallon respectively ? If so, will they be pleased to state the total loss involved ? If not, why not ?

(h) Will Government be pleased to state the reasons for such purchases ?

(i) Do Government propose to enquire into the matter ? If not, why not ?

STATE CONTROL OF THE BENGAL AND NORTH WESTERN RAILWAY.

811. ***Mr. Satya Narayan Sinha :** (a) Will Government be pleased to state the steps they have taken, or are going to take, to implement the Resolution of the Assembly passed *nem con.* in its last Session in Delhi, regarding the taking over of the Bengal and North Western Railway under the State management ?

(b) If no steps have been taken so far, are they going to do it in the near future ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : I would refer the Honourable Member to the reply I gave to a somewhat similar question No. 38 by Mr. S. Satyamurti on the 1st September, 1936.

TRANSFER OF POSTAL CLERKS WHO SUFFERED IN THE QUETTA EARTHQUAKE TO THE PUNJAB CIRCLE.

812. ***Bhai Parma Nand :** (a) Have Government considered the case of the postal clerks, who suffered in the Quetta earthquake, for transfer to the Punjab Circle ? If so, have the officials been transferred to their home divisions ? If not, why not ?

(b) Is it a fact that the Government employees in other departments at Quetta, who had similarly suffered, were transferred without any condition ? If so, why have conditions been imposed in the case of postal subordinates ?

(c) Is it a fact that telegraphists were transferred from Quetta without the imposition of any conditions to the stations of their choice ?

(d) How is it that certain conditions have been imposed in the case of postal subordinates ?

(e) Why is this differential treatment given to Government servants in Government Departments ?

(f) Are Government prepared to remove the conditions and transfer the postal staff, who suffered in the Quetta earthquake, to the Punjab to their home divisions ?

The Honourable Sir Frank Noyce : (a) The reply to the first part is in the affirmative. As regards the second part, seven clerks and three postmen have applied for transfer and arrangements are being made for their transfer to the Punjab and North-West Frontier Circle. None has actually been transferred as yet. The transfers are subject to administrative convenience and to vacancies being available.

(b), (d) and (e). The attention of the Honourable Member is invited to the statement laid on the table of the House in reply to part (a) of his starred question No. 1206 on the 13th March, 1936. The conditions imposed in the case of postal subordinates have been necessitated on account of the special circumstances of the Department.

(c) General Service Telegraphists are on an All-India cadre and consequently they were transferred without the imposition of any conditions.

(f) No.

Mr. Lalchand Navalrai : May I know from the Honourable Member whether the conditions that were placed for their transfer by the Director General of Posts and Telegraphs will be relaxed or not ?

The Honourable Sir Frank Noyce : I cannot say more than that the conditions were that vacancies should be available. Vacancies are not yet available, and as soon as they are, transfers will be made.

Mr. Lalchand Navalrai : Besides the condition of vacancies occurring, one of the other conditions was that they would have to draw lower pay when they went to the Punjab. Has that condition been removed or not ?

The Honourable Sir Frank Noyce : No. If it were removed, the result would be that in endeavouring to satisfy the wishes of these men that injustice will be done to others.

Mr. Lalchand Navalrai : They have particular grades and when they are transferred will they be placed on the same grade according to the date of their entry into service, or they would be placed below the persons that are working in the Punjab ?

The Honourable Sir Frank Noyce : I should like to have notice of this question. I do not remember exactly what the details of the conditions are.

Mr. Lalchand Navalrai : Does the Honourable Member know that representations were made after those orders were passed by the Director General, accepting certain conditions and asking for the removal of others ?

The Honourable Sir Frank Noyce : I am sorry I could not follow the Honourable Member's question. All I can say is that these men have applied for transfer. They have been promised transfer subject to certain conditions which they have accepted. Having accepted those conditions I cannot see what grievance they can have.

Mr. Lalchand Navalrai : I am conscious that those details may not be known to the Honourable Member, but what I submit is that representations have actually been made in which they have accepted some conditions, and as regards others they say they are unreasonable and should be removed. Has there been any consideration of that representation ?

The Honourable Sir Frank Noyce : I should require notice of that.

PROMOTION OF THE STOREMEN OF THE INDIAN ARMY ORDNANCE CORPS AS ASSISTANT STOREKEEPERS.

S13. ***Bhai Parma Nand :** (a) Is it a fact that in every appointment letter issued to the storemen of the Indian Army Ordnance Corps, it was specifically laid down that graduates will have quicker chances of promotion as Assistant Storekeepers than non-graduates ?

(b) Is it a fact that certain graduates quitted better jobs with a temptation that they will be given accelerated promotion to Assistant Storekeepers grade but that now these promises have been set at naught ?

(c) Has it even been the intention of the Defence Department to promote as Assistant Storekeepers certain graduate storemen referred to

above after their waiting list was exhausted ? If so, why was that intention not given effect to ?

(d) Is it a fact that a provision existed that a graduate storeman was eligible, without any further examination whatsoever, for appointment as an Assistant Storekeeper ? Does that provision exist now ?

(e) Is it a fact that a non-graduate storeman, before his promotion as an Assistant Storekeeper, had to go through a competitive examination when he reached a pay of Rs. 80 per mensem as a storeman ? Are these conditions still in force ? If not, why are they changed ?

(f) Is it true that graduate and non-graduate storemen have now been placed on equal footing and that a competitive examination for promotion has now been enforced for both of them ?

(g) Is it a fact that only those persons were eligible for appearing at a competitive examination referred to above, who had qualified at the Kirkee School, and at the time of selection only 25 men who were sent to school by virtue of seniority were qualified ?

(h) Is it true that for the last two years only one storeman has been promoted, while the previous rate of yearly promotions had gone up to six ?

(i) Is it a fact that the scheme of Indian Military Assistant Storekeepers has been chalked out and the Non-Commissioned Officers with low education will be taken from Units for the job ? If so, what will be the fate of those poor graduates who were extended promises in writing and who quitted better jobs in the hope of getting Assistant Storekeeper-ship ?

(j) Do Government contemplate giving them some remuneration, or will their lot be sealed on Rs. 50—4—90—3—120 ?

Mr. G. R. F. Tottenham : Full information has repeatedly been given on this subject in a series of questions in this House and the Council of State, namely, starred questions Nos. 958 and 959, dated the 15th September, 1933, No. 931, dated the 30th August, 1934, and Nos. 585 and 586, dated the 7th April, 1936, unstarred question No. 349, dated the 14th April, 1934, all in the Legislative Assembly and question No. 21, dated the 24th February, 1936, in the Council of State. I have nothing to add to those replies.

Mr. Lalchand Navalrai : May I know from the Honourable Member with reference to his answer to clause (d) of the question, whether any such promises were given to these graduates that they would be promoted ?

Mr. G. R. F. Tottenham : If the Honourable Member will refer to the answers to the questions I have quoted he will find an answer to that.

GRANT OF RICKSHAW ALLOWANCE TO THE MEMBERS OF THE LEGISLATIVE ASSEMBLY IN SIMLA.

814. ***Lieut.-Colonel Sir Henry Gidney :** (a) Are Government aware that Members of the Assembly attending the Sessions at Simla are constrained to stay at long distances from the Assembly Chamber and are thereby put to considerable expense by way of rickshaw charges ?

(b) Is it a fact that Members are permitted to bring their motor cars when attending the Sessions at Delhi and are allowed petrol allowance besides the haulage charges of the Members' motor cars ?

(c) Is it a fact that Members are not given any special Simla allowance to meet the extra conveyance charges incurred by them while at Simla and do Government propose to consider the grant of a rickshaw allowance to Members attending the Simla Session of the Legislative Assembly ? If not, why not ?

The Honourable Sir James Grigg : (a) Government are aware that some Members of the Assembly do reside at a considerable distance from the Assembly Chamber and do engage rickshaws to come to the Chamber.

(b) The petrol allowance is admissible only to Members who actually reside outside New Delhi.

(c) Yes, but Government see no sufficient case for any such allowance.

REDUCTION OF FARE BETWEEN MADRAS AND DELHI AND SPEEDING UP OF THE GRAND TRUNK EXPRESS.

815. ***Mr. C. N. Muthuranga Mudaliar :** Will Government be pleased to state :

(a) whether the distance by railway between Calcutta and Delhi is 902 miles ;

(b) whether the time taken by the Delhi Express for the journey between Calcutta and Delhi is 23 hours 46 minutes ;

(c) whether the train fare for second class between Calcutta and Delhi is Rs. 37-7-6, and that for the third class Rs. 10-1-6 ;

(d) (i) whether the distance by railway between Madras and Delhi is 1,361 miles, (ii) whether the time taken by the Grand Trunk Express for the journey between Madras and Delhi is 48 hours and 8 minutes, and (iii) whether the railway fare for second and third classes, respectively, is Rs. 75 and Rs. 23-11-0 ;

(e) why there should be so much difference in the train fare and in the time taken up between the journey from Calcutta to Delhi and that from Madras to Delhi : and

(f) whether they propose to consider the advisability of reducing the train fare and the time taken up for the journey done by the Grand Trunk Express ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) This is the time taken from Delhi to Calcutta. In the reverse direction, the time is 23 hours 19 minutes.

(c), (d) (i) and (iii). Yes.

(d) (ii) The time taken from Madras to Delhi is 48 hours 25 minutes and from Delhi to Madras 47 hours 25 minutes.

(e) and (f). I would refer the Honourable Member to the reply I gave to Mr. Ananthasayanam Ayyangar's short notice question on the 26th March, 1936.

Prof. N. G. Ranga : Are Government aware that most of this delay in the Grand Trunk Express from Delhi to Madras and Madras to Delhi takes place in the Hyderabad section ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware.

Prof. N. G. Ranga : Will Government try to take some steps to introduce a faster service ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid there are many difficulties which cannot be overcome.

Mr. C. N. Muthuranga Mudaliar : What is the reason for the disproportionate rates in the railway fare ?

The Honourable Sir Muhammad Zafrullah Khan : The rates are different on different railways.

Prof. N. G. Ranga : Is there any proposal to reduce the third class fares on this Express for the through journeys ?

The Honourable Sir Muhammad Zafrullah Khan : I believe I dealt with this matter in the question and answer to which I have referred.

REDUCTION OF THIRD CLASS FARE BETWEEN BEZWADA AND MASULIPATAM ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

816. ***Mr. C. N. Muthuranga Mudaliar :** Will Government be pleased to state :

- (a) whether the Madras and Southern Mahratta Railways, Ltd., have reduced the third class railway fare between Bezwada and Masulipatam in order to compete with the bus service ;
- (b) whether higher fare is charged for journeys to intermediate stations between Bezwada and Masulipatam ;
- (c) whether they are aware that passengers purchasing through tickets from Bezwada to Masulipatam and alighting at intermediate stations are charged excess fares ;
- (d) whether they are prepared to order the discontinuance of such a practice ; and
- (e) whether they are prepared to consider the advisability of directing the railway to charge proportionately for journeys to intermediate stations ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes.

(c) Passengers purchasing through tickets from Bezwada to Masulipatam and alighting at intermediate stations are charged the difference between the fare paid and the correct fare from Bezwada to the station at which they alight

(d) and (e). No : fares have been reduced where competitive conditions have justified such a reduction ; in other cases, the fares charged are on the same basis as are applicable on the system generally.

Qazi Muhammad Ahmad Kazmi : Does not the Honourable Member consider this wasteful competition ?

The Honourable Sir Muhammad Zafrullah Khan : The reduction of fares is not wasteful competition. The wasteful competition is in the other direction.

Prof. N. R. Ranga : Is it only a collection of the difference between the two fares payable or is it double the difference in the fares between Bezwada and Masulipatam and any intermediate station and Bezwada ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I have not been able to follow the question.

Prof. N. G. Ranga : Suppose a passenger takes a through ticket to Masulipatam from Bezwada and he gets down at an intermediate station ?

The Honourable Sir Muhammad Zafrullah Khan : He only pays the difference.

Mr. M. Ananthasayanam Ayyangar : Under what law is the difference charged ?

The Honourable Sir Muhammad Zafrullah Khan : Because the fare between Bezwada and the stations at which he alights would be higher. This is only commonsense.

Mr. M. Ananthasayanam Ayyangar : It is not open to a purchaser of a ticket to halt for a day after he has travelled 100 miles ?

The Honourable Sir Muhammad Zafrullah Khan : Not, if there are specially reduced fares between the two stations.

Dr. Ziauddin Ahmad : Is not Government entering into a kind of rate war in order to kill the bus competition ?

The Honourable Sir Muhammad Zafrullah Khan : The railway is only trying to retain the traffic which it carried before.

ALLOTMENT MADE FOR THE BURDWAN-ARAMBAGH ROAD FROM THE ROAD DEVELOPMENT FUND.

817. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state what amount has been allotted by the Government of India Road Board for the Burdwan-Arambagh Road in Bengal ?

(b) When was the allotment made, and when was the work commenced ? What was being done in the interval ?

(c) Is the road an inter-provincial and historic one ?

(d) Is it a fact that the road is used by millions of people living in the Trans-Damodar area of the Districts of Burdwan, Hooghly and Bankura and is the only road to go to their district headquarters and Calcutta ?

(e) Is it a fact that motors used to ply on this road for the past 12 years, and that motor traffic has ceased on this road since June last ? If so, why ?

(f) Is it a fact that the road has been rendered impassable by placing of loose earth on the metalled District Board road just before

the rainy season between the fifth and tenth mile of the Burdwan-Arambagh Road? Is it a fact that cart traffic has ceased and knee-deep mud has made it extremely difficult for even pedestrians to pass?

(g) Will Government be pleased to state whether the Provincial Road Board authorities have taken any steps to provide for the passage of motors, carts and pedestrians during the continuance of the improvement works? If so, what?

(h) How long the Provincial Road Board authorities will keep the road in this condition?

(i) Do Government propose to give any facility of communication to the people of the Trans-Damodar area during the continuance of the improvement work on this road by the Provincial Road Board?

The Honourable Sir Frank Noyce : (a) and (b). In 1930 the Government of India approved an expenditure of Rs. 5 lakhs out of the Road Development Fund for improvements to the Burdwan Arambagh road on the basis of a rough estimate submitted by the Local Government. In 1935 the Government of India accepted a revised estimate of Rs. 11 lakhs which was the estimate arrived at after detailed investigation, and they have been recently informed that the Local Government have sanctioned a detailed estimate amounting to Rs. 4,37,720 for the improvement of the Burdwan-Sehara bazar section of that road.

(c) to (i). These are matters entirely within the province of the Local Government about which, I regret, I am unable to supply any information. As the Honourable Member is aware, under the Resolution governing the administration of the Road Fund which was adopted by the Assembly on the 21st April, 1934, the only condition attached to the use of their respective shares by Local Governments is that expenditure shall not be incurred on schemes except with the previous approval of the Governor General in Council. The Government of India have no control either on the actual execution of the work or the time taken over it. It is for this reason that in the revised road Resolution which I propose to bring before the House in the course of this Session, it has been provided that the shares allocated for expenditure in Governors' provinces shall be retained by the Governor General in Council until actually required, and that the latter shall have power to resume the amount so allocated if there is unreasonable delay in making use of it.

Dr. Ziauddin Ahmad : Do the Provincial Governments send any report to the Government of India in regard to the manner in which they spend the money given by the Government of India.

The Honourable Sir Frank Noyce : The expenditure is audited.

Dr. Ziauddin Ahmad : Is any report sent to the Government of India?

The Honourable Sir Frank Noyce : No report beyond the fact that the expenditure is audited.

Dr. Ziauddin Ahmad : Do the Government satisfy themselves that the money is spent for the purpose for which it is given?

The Honourable Sir Frank Noyce : That is the duty of the audit authorities.

CONCLUSIONS ARRIVED AT BY THE TRANSPORT ADVISORY COUNCIL IN SIMLA.

818. ***Mr. Lalchand Navalrai** : (a) Will Government be pleased to state if any motor transport companies or bus unions, or any motor organizations were consulted, or their opinions called for, with regard to the agenda which was taken up by the Transport Advisory Council which was recently held at Simla ? If not, why not ?

(b) Were any organizations, or persons interested in motor and bus transport, called to participate in the deliberations of the aforesaid Council ? If not, why not ?

(c) Do Government propose to call for opinions of, or sit in conference with, those concerned in motor and bus services to discuss the conclusions arrived at by the Transport Advisory Council, before any legislation is undertaken ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). No. For reasons which I explained in the course of the debate on the Indian Motor Vehicles (Amendment) Bill, the Transport Advisory Council is an official body concerned with the adjustment of Central and Provincial policy for the co-ordinated development of the various forms of transport.

(c) The Bill to amend the Indian Motor Vehicles Act, 1914, seeks to give effect to only a few of the conclusions of the Transport Advisory Council and in accordance with the motion accepted by Government a few weeks ago, it is being circulated for eliciting public opinion.

Mr. Lalchand Navalrai : Do Government propose to sit in conference with those concerned in motor and bus service in order to come to some conclusion before the next Session of the House ?

The Honourable Sir Frank Noyce : The answer is in the negative. Those interests have ample opportunity of representing their views to Local Governments.

Mr. Lalchand Navalrai : In view of the fact that there will be a better understanding if a conference is convened, may I know if Government are agreeable to the course I suggest ?

The Honourable Sir Frank Noyce : I may remind the Honourable Member that there are a very large number of motor transport associations in this country.

Mr. Lalchand Navalrai : May I suggest that only a few of them may be called ?

The Honourable Sir Frank Noyce : No, Sir. If you summon only a few, that would provoke protests from those who are left out.

Mr. Lalchand Navalrai : If they combine into one body and send their representatives, would Government consider the suggestion favourably ?

The Honourable Sir Frank Noyce : That would be a great advantage but my Honourable friend has put a hypothetical question. Unless such a federation is formed of all the various interests, I am not in a position to answer his question.

Dr. Ziauddin Ahmad : May I know whether this Transport Advisory Council has representatives (a) of the railway administration, and (b) of the bus companies.

The Honourable Sir Fank Noyce : I have explained to my Honourable friend on several occasions that this Transport Advisory Council is a purely official body and it must be perfectly obvious to an Honourable Member of his intelligence that *ipso facto* there were no direct representatives of bus interests on it. As regards railway representatives, my Honourable colleague, the Commerce Member, and the Chief Commissioner of Railways are members.

Mr. Lalchand Navalrai : If certain representatives from unions of these bus companies are prepared to come, will Government invite them ?

The Honourable Sir Frank Noyce : That is hypothetical.

SALE OF QUININE IN ENGLAND AND OTHER COUNTRIES.

819. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) whether it is a fact that large quantities of quinine were sold by them in England and other countries during the last year ;
- (b) if so, in which countries, in what quantities and at what prices ;
- (c) what is the price at which quinine is sold in India by Government either to the public or to Provincial Governments ;
- (d) how they explain the discrepancy between the price of quinine sold abroad and that sold in India ; and
- (e) what measures are proposed to be taken, after the separation of Burma to make India self-sufficing in the supply of quinine ?

Sir Girja Shankar Bajpai : (a) and (b). In 1935-36, 11,266 lbs. of crude quinine were sold by the Government of India out of their surplus stock to a firm of chemists in London. The average price of the quinine was, as stated in reply to Mr. Satyamurti's question No. 777 early this morning, higher than the price at which the quinine was offered to Local Governments in 1932.

(c) Rs. 18 per lb. for purified quinine.

(d) The attention of the Honourable Member is invited to the answer given to part (b) of Mr. Satyamurti's question No. 777.

(e) The attention of the Honourable Member is invited to the portion of my speech printed on page 2755 of the Legislative Assembly Debates, Volume IV, No. 1, dated the 18th March, 1936.

Prof. N. G. Ranga : Does that mean that the Government of India do not propose to take any steps to see that India is self-sufficing in the event of the separation of Burma ?

Sir Girja Shankar Bajpai : Well, Sir, even as it is, at the moment, the Burma supply is a small fraction of the supply produced by the Government of Bengal and Madras in India.

Prof. N. G. Ranga : Are the supplies from the Governments of Bengal and Madras taken over by the Central Government and kept here as a central reserve, or those Provincial Governments are entirely free to produce that quinine and sell it to whichever Provincial Government, asking for it, they like to ?

Sir Girja Shankar Bajpai : The Government of India take over no portion of the quinine produced either by the Government of Bengal or the Government of Madras. These two Local Governments distribute their supplies to certain provinces.

Mr. M. Ananthasayanam Ayyangar : What is the reason for the fact that it is sold at a higher price in India than the price for which it is offered to a company in England ?

Sir Girja Shankar Bajpai : The explanation of that was given when I answered my Honourable friend's question earlier this morning. We had to get rid of the surplus because the Public Accounts Committee wanted us to get rid of that surplus, and for that purpose we have had to sell it at a lower price.

SHORT NOTICE QUESTION AND ANSWER.

PROTECTION OF THE SINDWORK MERCHANTS FROM THE DANGER OF CIVIL WAR IN SPAIN.

Mr. Lalchand Navalrai : (a) Will Government be pleased to state if they are aware that there are many Sindwork merchants carrying on trade in several parts of Spain ?

(b) Are Government aware that the Committee of Sindwork merchants in Hyderabad (Sind) and the *Sind Observer* have ventilated the fact that the Sindwork merchants in Spain are in great danger and require protection in these days of civil war in Spain ?

(c) Will Government be pleased to state if any casualties have occurred in which the person and property of these Sindwork merchants in Spain have suffered ? If so, to what extent ?

(d) What steps have the British and the Indian Governments hitherto taken and what steps do they propose to take to safeguard the interests of these Sindwork merchants ?

Sir Aubrey Metcalfe : (a) Yes. The Government of India understand that there are about 200 Indians in Spain.

(b) Yes.

(c) No Indian suffered in person of property from the bombardments of Coastal towns in Spanish Morocco. Nor, so far as the Government of India are aware, has any damage been caused in Spain proper. The Consul General at Tangier, however has been instructed by His Majesty's Government to furnish a report on the position regarding British Indian interests.

(d) At the request of the Government of India His Majesty's Government have instructed Consular Officers in Spain and Spanish Morocco to do everything possible to protect property and to take note of particulars which might form a basis for possible presentation of claims for compensation.

Mr. Lalchand Navalrai : May I know from the Honourable Member if there are any arrangements made for their safety, if they wish to return to this country ?

Sir Aubrey Metcalfe : I cannot give the Honourable Member any more information than I have given him. Consular officers in Spain and Spanish Morocco have been told to do everything they can to assist them.

MOTIONS FOR ADJOURNMENT.

DEATH OF DETENU NABA JIBAN GHOSH.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of a motion for the adjournment of the House from Pandit Lakshmi Kanta Maitra, who wishes to ask for leave to move the adjournment of the Assembly for the purpose of discussing a definite matter of urgent public importance, *viz.*, "failure of the Government to enquire into the circumstances leading to the death of Naba Jiban Ghosh, an internee in Bengal who is reported to have committed suicide in Gopalganj Thana in District Faridpur, on the 23rd September, 1936". I wish to ascertain from the Honourable Member whether he has any reliable information that this gentleman has committed suicide, and if so, what led him to do so, and how is that connected with the Government of India. I want to know the facts.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non Muhammadan Rural) : Last Saturday, Sir, the brother of the deceased gave us definite, specific information.

Mr. President (The Honourable Sir Abdur Rahim) : What information ?

Pandit Lakshmi Kanta Maitra : That his brother was being kept detained in Gopalganj Sub-Division, that he died, and that the Government made out a case of suicide, and his people demanded an inquiry because this gentleman left in his pocket a letter in which he is alleged to have described the circumstances under which the death took place.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member got that letter ?

Pandit Lakshmi Kanta Maitra : No, Sir, because the Magistrate refused to deliver that letter to the father of the boy ; and the father of the deceased made representations to the Government to make over that letter to him because he was the only person legally authorised to have it because it was addressed to him, but the Government refused on the ground that that was against the public interest ; and I am submitting here that this question of " public interest " has been over-stressed and.....

Mr. President (The Honourable Sir Abdur Rahim) : That is not the question. I want to know if the Honourable Member has any information to show that this is a matter of public importance.

Pandit Lakshmi Kanta Maitra : Yes, it is of public importance in the sense that we have in this House debated times without number questions concerning the detenus ; and here is the case of a detenu who had been in Government custody and the Government cannot shove off the responsibility to protect him, and here the facts do seem to be of a very suspicious character.

Mr. President (The Honourable Sir Abdur Rahim) : What is the information ? I want to know that.

Pandit Lakshmi Kanta Maitra : On the 24th September last, Sir, the father of the deceased received a telegram from the police authorities stating that his son had committed suicide and that he could take delivery of his dead body. He then ran down with his eldest son to the place and then, after the *post-mortem* was made the body of the deceased was made over to him, and the father asked if there was a letter and he demanded it.....

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member any *information* to show what led him to commit this suicide ? I want to know if he has any reliable *information*.

Pandit Lakshmi Kanta Maitra : That is exactly what I want to place and discuss before the House, Sir,—because the circumstances do seem to be of an extremely suspicious character.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not justified in moving a motion for the adjournment of the Assembly unless he has some reliable information which shows that the matter is of public importance. The Honourable Member says that this gentleman committed suicide : does he now contend that this in itself is sufficient for him to move the adjournment of the House ?

Pandit Lakshmi Kanta Maitra : No, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : What other circumstances are there ?

Pandit Lakshmi Kanta Maitra : His brother has narrated to us that this unfortunate detenu has been subjected to extremely bad treatment by the police.

Mr. President (The Honourable Sir Abdur Rahim) : That is the information ? Bad treatment on the part of the authorities ?

Pandit Lakshmi Kanta Maitra : Yes.

(Interruption by an Honourable Member.)

Pandit Lakshmi Kanta Maitra : I am extremely sorry that the Honourable Member should, by this sort of interjection, treat the matter so lightly. After all.....

Mr. President (The Honourable Sir Abdur Rahim) : I do not want any arguments or discussion now. Has the Honourable the Home Member any information on this point ?

The Honourable Sir Nripendra Sircar (Leader of the House) : I have some information, Sir, and I may supply that, because I have seen a copy of this letter from the brother ; that was made over by my Honourable friend, Mr. Saksena, to Mr. Bose with a view that it may be sent on to me. I have received that letter. In that letter he is not at all sure whether it is a case of suicide ; he is not sure what has happened, and how he has died. I desire to point out that he was not in police custody ; he was in village domicile ; and the notice of the motion by my Honourable friend is " failure of the Government to enquire..... ". How can that be " failure ",—we have not yet received a report ? Then, it was not done under Regulation III ; he was in village domicile under one of the special Bengal Acts ; there is no question of the failure of the Government of India to inquire. Such a question has not arisen yet. I have received no information and report from the Local Government.

Pandit Lakshmi Kanta Maitra : In this connection I must tell the Chair that the Bengal Legislative Council is not in session.

Mr. President (The Honourable Sir Abdur Rahim) : There are no sufficient data at present to justify adjournment of the House. I, therefore, disallow the motion.

PROHIBITION OF THE RECITAL OF *Madhe-Sahaba* IN LUCKNOW.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion is in the name of Qazi Muhammad Ahmad Kazmi. He says :

" That the Assembly now do adjourn to discuss the following definite matter of urgent public importance, namely, the failure of the United Provinces Local Government in continuously prohibiting in Lucknow the recital of *Madhe-Sahaba* even by single persons and thus permanently banning an innocent, inoffensive, religious right and committing an interference with Muslim religion."

Is there any objection ?

The Honourable Sir Nripendra Sircar (Law Member) : Yes, Sir. If the motion had been put in the form that there was failure on the part of the Government of India, I would not have taken any objection. But my Honourable friend seeks to adjourn the House on a definite matter of urgent public importance, namely, the failure of the United

[Sir Nripendra Sircar.]

Provinces Local Government in doing something. I submit that a general motion has been moved and it can be the concern of the Local Government only and not that of the Governor General in Council.

Mr. President (The Honourable Sir Abdur Rahim) : But this Legislature also some time discusses an urgent matter of public importance even though it is primarily the concern of Local Governments. The Assembly does not ordinarily discuss matters within the cognisance of Local Governments but there have been cases when they have discussed such matters as they were of public importance.

The Honourable Sir Nripendra Sircar : It has been ruled by your predecessors that the motion of adjournment must essentially be the concern of the Government of India and of the Governor General in Council. If my Honourable friend had said that the failure was on the part of the Governor General in Council or the Government of India, I would not have taken any objection. But he attributes the failure to the United Provinces Local Government in doing certain things. I do not think his motion is within the letter of the rule.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Sir, when I move this adjournment motion in this Assembly against the United Provinces Local Government, I mean that the Government of India are also a party to this failure because they are ultimately responsible for the peace of India. So far as the Honourable the Law Member is concerned, he says that he would have had no objection to my motion if I had introduced the expression "Government of India". But, Sir, the failure of the United Provinces Government is the same as that of the Government of India. There is only a technical objection and with the spirit of my motion the Honourable the Law Member agrees. It is the failure of the Government of India also to a certain extent that the United Provinces Government is not abiding by the spirit of the law.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, the only thing with which the Chair is concerned at this stage is whether it is a matter of urgent public importance and whether it is a matter of recent occurrence. If the Chair is satisfied on these two points, then I submit whether it is the primary concern of the Governor General in Council or not is a matter that may be taken up at another place. Leaving that plea aside, the nature of the motion so far as its urgency or public character or being of recent occurrence is concerned is not questioned or impugned. The fact that the language of the motion is restricted to the United Provinces Government and does not mention Government of India makes no difference. The Government of India have the power of superintendence, direction and control over the affairs of all Local Governments. Besides, the matter relates to the reserved field and not to the transferred field. If the Government abstains from doing what it ought to do or if it omits to do and to discharge its duty, nobody else is to blame. Moreover, a motion for adjournment need not necessarily be a motion for censuring the Government. It has two alternative objects. It may be either to censure or to elicit a statement as to the relevant

facts and circumstances. Therefore, I submit that the motion is in order so far as these points are concerned. The other forum is beyond our reach.

Mr. President (The Honourable Sir Abdur Rahim) : The objection that has been raised by the Leader of the House is that the motion refers to the failure of the United Provinces Government in prohibiting the recital of certain religious observances. What I have to see is whether it is a matter of urgent public importance.

The Honourable Sir Henry Craik (Home Member) : May I make a further objection ?

Mr. President (The Honourable Sir Abdur Rahim) : Order, order : That is my only concern. There can be no doubt and it is not suggested that the question now sought to be raised is not a matter of public importance and also one of urgency. So far, therefore, as the Chair is concerned, it must rule that the motion is in order. As objection has been taken, as many Honourable Members as are for leave being granted will rise in their places.

(Several Honourable Members rose in their places.)

As not less than 25 Members have risen, the motion will be taken up at 4 o'clock.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Council of State :

“ I am directed to inform you that at the meeting of the Council of State held on the 30th September, 1936, the Council rejected the motion that the Bill further to amend the Code of Criminal Procedure, 1898, as passed by the Legislative Assembly, be taken into consideration.”

Mr. President (The Honourable Sir Abdur Rahim) : I understand from the Honourable the Leader of the House that it has become necessary that to-morrow, the 6th October, should be devoted to official business, otherwise it may be difficult for the Companies Law (Amendment) Bill to be finished in time to be considered by the Council of State on the 8th October, leaving sufficient time to the Assembly to consider any amendments that might possibly be made there. I understand that the Leader of the House has consulted the Leaders of other Parties and there is a general agreement that this should be done. I further understand that in case there is such an agreement, the Governor General is prepared to allot the 9th October, which is an official day, for the non-official business instead of the 6th. If that is generally agreeable to the Members, it seems to me that it would facilitate the business of this House. Is there general agreement ? (*Voices* : “ Yes ”.) Then, the Leader of the House will announce the order of the Governor General later on.

The Honourable Sir Nripendra Sircar : I may state that he has passed the order subject to your ruling here.

Mr. President (The Honourable Sir Abdur Rahim) : Very well. Then, tomorrow, the 6th October, will be devoted to official business and the 9th October to non-official business and the agenda for the 9th October will be the same as that for the 6th October.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : Sir, may I request the Honourable the Leader of the House, through you, now that the House is taking up a sort of business attitude about the work before it, to let us know what is going to be the attitude of the Government with regard to these Social Bills, because, Sir, as you know, on the non-official day there were six Bills which were to be sent to the Select Committee, and by now we realise that if the Government is going to support certain Bills, we would like to concentrate our efforts and energies on those Bills which the Government is willing to support and to send to the Select Committee, otherwise it is absolutely useless to waste our energies as well as the time and energy of the House in futile discussions from day to day. I hope, Sir, the Honourable the Leader of the House will appreciate the object of my request which I make to him through you.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, I think it would be highly prejudicial to the interests of the House if the Government were asked to commit themselves to support or not to support any Bill at this stage.

Mr. President (The Honourable Sir Abdur Rahim) : As there is no agreement on a point like that, I cannot allow that request.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Sir, for further facilitating business, I have consulted my friends here, and it is our desire that you should dispense with the questions tomorrow. As to day after tomorrow, you may decide after considering the stage we will reach tomorrow evening.

Mr. President (The Honourable Sir Abdur Rahim) : Is that agreeable to the House. (*Honourable Members from all parts of the House* : "Yes, yes".) Then, there will be no questions tomorrow. I am prepared to sit till six o'clock today.

STATEMENT LAID ON THE TABLE.

CASES IN WHICH THE LOWEST TENDERS HAVE NOT BEEN ACCEPTED BY THE HIGH COMMISSIONER FOR INDIA.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I lay on the table a statement, furnished by the High Commissioner for India, showing all cases in which the lowest tenders have not been accepted by him in purchasing stores for the Government of India during the half year ending the 30th June, 1936.

HIGH COMMISSIONER FOR INDIA.

INDIA STORE DEPARTMENT.

ABSTRACT OF CASES in which tenders for Stores demanded by the Central Government, other than the lowest complying with the technical description of the goods demanded, were accepted on the grounds of superior quality, superior trustworthiness of the firm tendering, greater facility of inspection, quicker delivery, etc.

HALF YEAR ENDING 30TH JUNE 1936.

Stores ordered.	Contract Number.	Name of Contractor.	Amount of Contract.	Lowest tender not accepted.	Reason for acceptance.
PART A.—Cases in which lower foreign tenders, including British tenders for foreign-made goods, have been set aside wholly or partially in favour of British tenders.					
PART B.—Cases in which the discrimination is between British firms only.					
Duck, flax, 600 yards.	T. 2482/4686/13-1-36	Richards, Ltd.	£ s. d. 44 11 2 (British).	£ s. d. 42 10 0 (British).	The material was demanded by telegram and was urgently required. The second lowest tender was accepted because of the earlier delivery offered.
Duck, cotton, 2,500 yards.	T. 2961/4583/22-2-36	M. C. Thomson & Co., Ltd.	£ s. d. 80 14 7 (British).	£ s. d. 71 12 3 (British).	The delivery offered by the lowest tenderer, 13 weeks, did not meet the urgent requirements of the indenting department. The order was placed with the next lowest tenderer who offered to supply from stock. The higher price was partly offset by the somewhat superior quality of the material and a saving in the cost of inspection.

PART C.—Cases in which the discrimination is between foreign firms only.

Nil.

PART D.—Cases in which lower British tenders have been set aside in favour of foreign tenders.

Nil.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : Legislative Business. The House will now resume consideration of the Bill to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee.

Amendment No. 1 on List No. 8 was moved by Mr. Satyamurti, and that is now under consideration. The question is :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87K. No managing agent shall have any power to appoint more than one director of a company of which he is the managing agent ’.”

The motion was negatived.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87HHH. Officer in section 86C includes a managing agent ’.”

Sir, I do not know if the Honourable the Law Member considers this amendment as redundant. I am prepared to accept that that view would not be altogether an unreasonable one, because, according to the definition of “ officer ” as given in clause 2 of this Bill “ officer ” includes a managing agent, but if you will kindly refer to clause 86C, you will find there that the words director and manager are also mentioned in addition to the word “ officer ”, though “ director ” and “ manager ” are included in the definition of “ officer ”. So there is some likelihood of some misunderstanding being created by the omission of the words “ managing agents ” from 86C. I am not discussing the principle of 86C as it has been practically conceded and accepted by the Honourable the Leader of the House. The only point is whether it is or it is not desirable to have a small sentence like this. I personally feel that it is necessary, and I suggest that this clause be inserted at this stage, and when we reach the Third Reading, then the Law Member may move for the omission of this clause and for the insertion of the words “ managing agent ” in 86C itself. Under the rules, any formal amendments can be made at the stage of Third Reading. When the words “ managing agent ” are inserted in 86C itself, then of course this amendment will fall down automatically. So I suggest that this amendment be accepted at this stage with liberty to the Honourable the Law Member to have the words “ managing agents ” inserted in 86C at a later stage.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87HHH. Officer in section 86C includes a managing agent ’.”

The Honourable Sir Nripendra Sircar (Law Member) : Sir, as my friend himself points out, we have amended the definition of “ officer ”, and in 2 (1) (b) “ officer ” includes “ managing agent ”, so that a managing agent has already been included in 86C, and this amendment is wholly unnecessary. I would not have probably taken any time of the

House, but I fear it may very well be argued if the amendment is accepted that although managing agent is included in the word "officer" all through, it is only in one section, you are pointing out that "officer" includes a "managing agent". This might lead to difficulties, and I would ask my friend to consider that when he concedes that a "managing agent" is already roped in in 86C, and as "officer" includes a managing agent, whether it is necessary to have this amendment. In my opinion, Sir, it is not necessary, and I am not inclined to accept it.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Does the word "officer" include a managing agent ? Evidently it does not.

The Honourable Sir Nripendra Sircar : The question is immaterial, because managing agent is specifically mentioned.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

' 87HHH. Officer in section 86C includes a managing agent '."

The motion was negatived.

Pandit Govind Ballabh Pant : Sir, I move :

"That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

' 87K. Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors '."

Again, Sir, I may state at the very outset that if the Honourable the Law Member has any objection to this, I do not insist on its being put in the Bill. I personally do not agree with the interpretation that has been placed by Members opposite on the amendment of Dr. Khare which, according to me, if read with articles 78, 79, 80 and 81, leaves no doubt as to the shareholders in a general meeting being entitled to elect at least two-thirds of the directors. That is my view of the matter. I have again and again examined it, and I am perfectly satisfied that it cannot be otherwise. If my interpretation be correct, then we do not gain much by having a clause of this type, for nearly one-third will be left after two-thirds have been reserved for the shareholders and that one-third alone will be available to the managing agent and others who may want to nominate directors. But as there was a clause like this and as in view of difference of opinion in this House there may be occasion for some misapprehension, I am moving this amendment. But I leave it to the Government whether to accept it or to reject it. If they do not want it, I will not press it.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

' 87K. Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors '."

The Honourable Sir Nripendra Sircar : It is rather a curious position that my Honourable friend does not know whether he wants this amendment or not. My position is this, that if they really want it, I will not object to it.

Pandit Govind Ballabh Pant : I am obliged for the acceptance of my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87K. Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 42, as amended, stand part of the Bill.”

The motion was adopted.

Clause 42, as amended, was added to the Bill.

Clause 43 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 44 stand part of the Bill.”

Mr. G. E. J. Robertson (Burma : European) : Sir, I beg to move :

“ That in clause 44 of the Bill, for the proposed sub-section (3) of section 91A, the following be substituted :

‘ (3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies, and which shall be open to inspection at the registered office of the company during business hours in such manner as the company in general meeting may determine ’.”

Sir, the object of this substituted sub-section (3) or rather of sub-section (3) as it stands at present is to provide for the keeping of a separate register for the particular purpose of recording contracts in which a director of a company is interested. The section goes on :

“ and which shall be open to inspection by any member of the company at the registered office of the company during business hours.”

Now, Sir, we have already made in this Bill Regulation No. 105, a compulsory part of the articles of the Company. “ Regulation 105 provides that “ the accounts and books of the company . . . shall be open to the inspection of members ” on the authority of the company in general meeting. Sub-section (3) as it stands seeks to make this particular register open to inspection by any member of the company without any authority by the company in general meeting and we, on these Benches, are unable to see why this particular Register should be accorded special treatment. We are perfectly in agreement that, although Regulation No. 105 would in effect permit any member, if the

company so authorizes, to trace the contracts referred to or contemplated in sub-section (3), there can be no possible objection to providing that a special register should be kept of those contracts in which the directors are interested so that a member may be able to lay his hands on the contract he is looking for straightaway without having to hunt through possibly a number of other books. We do not see why the inspection of this particular register should be given special preference and we think that if we provide for a special register and if the inspection of that register is on the same lines as laid down under Regulation 105, we shall have provided satisfactorily for the interests of the shareholders. After all if the shareholders as a body take the view that such registers should be open to inspection, then any member can inspect them. If on the other hand, they think that they should not allow it, that they should prevent one single shareholder holding one single share from inspecting these books and possibly allowing information to leak out which will not be in the interests of shareholders as a general body, then they can disallow it. We think that if a special register is provided for and it is also subject to the restrictions which are contained in Regulation No. 105, we shall have done all that is necessary and desirable. Sir, I move :

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 44 of the Bill, for the proposed sub-section (3) of section 91A, the following be substituted :

‘ (3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies, and which shall be open to inspection at the registered office of the company during business hours in such manner as the company in general meeting may determine ’.”

Mr. Susil Chandra Sen (Government of India : Nominated Official) : Sir, we have no objection to this amendment specially as we see from the language that it does not want to do away with the rights given to the shareholders altogether.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Of course, it does.

Mr. Susil Chandra Sen : I have listened to some portions of the speech of my Honourable friend, Mr. Robertson, where he suggested something of the nature, but I do not agree with him that this amendment, if passed, will enable the shareholders by any resolution to do away with the rights of the shareholders. If I may draw the attention of the Honourable Members to the amendment itself, it says :

“ That in clause 44 of the Bill, for the proposed sub-section (3) of section 91A, the following be substituted :

‘ (3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies, and which shall be open to inspection at the registered office of the company during business hours in such manner as the company in general meeting may determine ’.”

Sir, the relevant thing is the last sentence “ in such manner, etc.”. To my mind, Sir, it is quite clear that the qualification is to the manner of the inspection, but I submit that on no reasonable interpretation can it be said that it does authorise the shareholders to do away with the

[Mr. Susil Chandra Sen.]

inspection altogether. What I mean is that so far as we can find, this amendment will allow the shareholders to lay down only the mode and the manner in which the inspection may be had ; and not to do away with the inspection altogether. If that is so, and we think it is so, then it is not objectionable from our point of view.

Dr. Ziauddin Ahmad : Sir, by this amendment we give with one hand and take away with the other. If you say, "in such manner", etc., it is quite legitimate for the meeting of shareholders to say that it objects to certain parts being seen and they should be pinned together and should not be removed during inspection by any member. So you can always hide an important thing by putting a little black paper which will not be open to inspection by any shareholder. These words "in such manner as the company in general meeting may determine" are really very dangerous words and they take away the very same power which we want to give, and I am surprised that Government are supporting this particular amendment which goes against the very purport for which this particular section is framed.

Mr. M. A. Jinnah : Sir, I strongly object to this amendment and I am really surprised that the Honourable Member who spoke on behalf of Government has taken it so lightly. It is a very important thing. When the Honourable Member was speaking I interjected that it will take away the right of the shareholders, but I do not think the Honourable Member appreciated the significance of my interruption. The clause in the Bill as it is framed now gives any shareholder the absolute right to inspect. That right is now proposed to be taken away to this extent that the shareholders by a majority can decide to take away or curtail that right of his. That is the effect of it and it is a very serious thing. Why should the absolute right of the shareholders to inspect the registers of these transactions be taken away by the majority ? You are destroying the very foundation of the principle underlying the clause as the Bill proposes, and I say it is a very serious matter.

The Honourable Sir Nripendra Sircar : Sir, may I put in a word for Mr. Sen ? He said that if it means that it is taking away that right, as my Honourable friend, Mr. Jinnah, thinks it does, then he said he would object to this amendment. But the language of the amendment is, "in such manner as the company in general meeting may determine". Does it take away the right of inspection, or does it control the manner of inspection, that is when it is to be done and how it is to be done, etc. ? That is the point he made, and he agreed that if the Honourable Member's view is right as regards the construction he will object.

Mr. M. A. Jinnah : May I point out to the Honourable the Leader of the House that the Mover of this amendment explained himself as to what his amendment means. He said definitely,—and he will correct me if I am wrong,—that the shareholders may decide by a majority that no right of inspection should be given to the member of the company. I may point out to the Honourable Member that the expression "in such manner" is one through which you can drive a coach and four, and as he explained, it convinces me that the intention is really to drive a coach and four through. I therefore strongly object to this amendment.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muham-madan Rural) : Sir, I may point out that sub-section (2) of section 91-A, would be perfectly futile if this amendment were accepted. The section says that any director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding Rs. 1,000. The whole object of the inspection is to enable the shareholders to know whether the disclosure which is obligatory under section 91-A (1) has been made, and if it is restricted in any manner it is likely to defeat the very object of sub-section (2). I support my Honourable friend, Mr. Jinnah.

Mr. M. S. Aney (Berar Representative) : Sir, there is one more point to which I wish to draw the attention of the House and for which this amendment should be rejected by the House. If we allow this amendment to be passed, the result will be that different companies will make different rules, and there is no guarantee that the company will not make such rules as to restrict the right of the member to make an inspection. And so there will be no uniformity of practice, and in certain companies the right will be definitely taken away by providing that no member shall have the right of inspection unless a majority votes for such right being given. So all these things can be brought in in the name of making rules under the authority of this amendment. I therefore think that this will take away the very right which it is the object of this particular clause to confer on the shareholders. Therefore, the amendment should be rejected.

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, I think an explanation is due to the House as to what our reason is for moving this amendment and what we understand by it. Our objection to the clause as it stands is this. The clause as it stands in the Bill says :

“(3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies, and which shall be open to inspection by any member of the company at the registered office of the company during business hours.”

Now, Sir, our objection is not to inspection or to any other part of this section as it stands. What we object to is the right of any member who may have perhaps one share worth Rs. 10 to come along and say, “I want to see all your contracts and arrangements”. That may be a share held by a rival concern so that they may, as in a not uncommon case, secure a copy of the balance-sheet and accounts of a competing company, and as a shareholder they are entitled to get that. But I submit that they are not entitled to any more. They are not entitled to come along to the offices of the company and say, “We want to see all your contracts and all your registers,—the registers in which these particular matters are disclosed”. Supposing you have a block of the shareholders who may be perhaps 10 per cent. or 20 per cent. of the shareholders of the company. They may hold valuable rights, for example, in grass or they may have certain mineral rights that they want to have operated by that company. The managing agent or other directors may also have similar rights and it may be in the interest of the company, and presumably is, as the managing agent and the directors are large shareholders in nearly all cases, that the contract should be put through some particular company, which may be a company in which the managing agent or director is interested. Then we have this minority of the shareholders who hold grass which may not be of specially good quality or they may have some mineral deposits which also may not be of good quality or the price may be higher than that

[Mr. T. Chapman-Mortimer.]

charged by the company controlled by the managing agent. They come along and say "We object to this contract". Then the position will be that the company has got to get its mineral or its raw material from some other source and the only other source obviously in this particular case may be perhaps the rivals who own these raw materials. They have worked up propaganda among the shareholders to see that this contract with the managing agency comes to an end.....

An Honourable Member : Then why not delete sub-clause (3) altogether ?

Mr. T. Chapman-Mortimer : We do not now suggest that. If my friend will see Regulation 105, he will see that it is perfectly clear that the shareholders have a right to say "We are not quite satisfied with the position in regard to these contracts : we want to nominate two or three of our members to examine your books". No one has any objection to that. What we object to is the right of a rival concern merely coming and saying, because it happens to hold one or two shares of your company, "We want to see your contracts". We object to that. We have no objection if the shareholders in general meeting say "We want to have these contracts looked into by representatives of the shareholders, independently of the board of managing agents". Really I do not think there is any intention here to drive a coach and four through the Act as my Honourable friend, Mr. Jinnah, suggested. We managing agents may be a bad lot but we are not quite as Machiavellian as all that.....

Mr. M. A. Jinnah : I am not so sure.

Mr. T. Chapman-Mortimer : In any case it has just been pointed out to me that under Regulation 105, which the House has already incorporated in clause 7, ordinary members of the company will not have any right to inspect any book or account or document except as conferred by law or as authorised by the directors or by the company in general meeting. I support this amendment.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadian Urban) : Sir, I am unable to follow the argument of my Honourable friend : I quite understand his apprehension about a few shareholders who may be more interested in a rival company coming and demanding to look at his register with the main object of obstruction. I quite understand that point of view. Then his objection is fundamental to the whole of that subsection.....

Honourable Members (on the European Benches) : No, no.

Sir Cowasji Jehangir : Does he mean to contend that by these words 'in such manner as the company in general meeting may determine' he will get the majority of the shareholders to pass a regulation that shareholders who come with the object of obstruction shall not see the register and such shareholders who only come with a *bona fide* idea of gaining knowledge shall see the register ? How is he going to determine who is a *bona fide* shareholder and who is not ? Or does he mean to contend that by the two lines he has added it is open to the majority of the shareholders to say that the register shall be open for five minutes at 8 o'clock in the morning ? Thereby you will drive a coach and four through subsection (3).....

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member ought to address the Chair, so that all parts of the House may hear him.

Sir Cowasji Jehangir : I am quite prepared to be interrupted. Therefore, I do not see how this amendment is going to help my Honourable friends, unless they interpret it as I have interpreted it just now. If they interpret it in any other way, then they will not fulfil the object they have in view. The only line for them to take is to object to the whole of sub-section (3).

The Honourable Sir Nripendra Sircar : I will not detain the House for more than a minute. Whatever doubts I had about the real intention of the amendment have been cleared up by the last speech. I understand the intention is that if necessary a majority of the shareholders may say "You will not have any inspection at all, or, say during the next six months or the next year". If that is so, the only obvious course is to oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 44 of the Bill, for the proposed sub-section (3) of section 91A, the following be substituted :

' (3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies, and which shall be open to inspection at the registered office of the company during business hours in such manner as the company in general meeting may determine '."

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadian Rural) : Sir, I beg to move :

"That in clause 44 of the Bill, after the proposed sub-section (3) of section 91A, the following sub-section be inserted :

' (4) Every officer of the company who acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees '."

There has been a lot of debate already on the maintenance of registers and the granting of opportunities to members for inspection of registers. Sub-clause (3) provides that a register shall be maintained ; but in case of default there is no penal provision provided in the Act.....

Sir Cowasji Jehangir : Why do you not let Mr Sen move his amendment ?

Mr. M. Ananthasayanam Ayyangar : I have moved mine and I am quite prepared to accept five hundred rupees in place of the thousand which I had put originally....

Mr. M. A. Jinnah : Why do you not withdraw yours and let Mr. Sen move his ?

Mr. M. Ananthasayanam Ayyangar : I have no objection to his moving it. I have moved mine. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 44 of the Bill, after the proposed sub-section (3) of section 91A, the following sub-section be inserted :

‘ Every officer of the company who acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees ’.”

Mr. Susil Chandra Sen : Sir, we accept this amendment. As you will find, Sir, the next amendment is really what he has moved.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 44 of the Bill, after the proposed sub-section (3) of section 91A, the following sub-section be inserted :

‘ Every officer of the company who acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 44, as amended, stand part of the Bill.”

The motion was adopted.

Clause 44, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 45 stand part of the Bill.”

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Sir, I move :

“ That in clause 45 of the Bill, for sub-clause (b), the following be substituted :

‘ (b) To sub-section (3) the following proviso shall be added, namely :

‘ Provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company ’.”

My amendment seeks to remove a difficulty which was probably not adequately realised at the time when the Select Committee deliberated on this matter.

The Honourable Sir Nripendra Sircar : We are not clear what this means.

Sir H. P. Mody : I shall explain that in a second. Section 91-B
1 P.M. lays down that directors shall not vote on a proposition in which they are interested. I am talking of the existing law. Sub-section (3) of section 91-B lays down that this section shall not apply to a private company. Now, as I seek to amend the section it will run thus :

“ This section shall not apply to a private company, provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company.”

The object is this. There are many holding companies which have the same directorate on the subsidiary companies of which they are the parent company. That has happened in a great many companies. If section 91-B, as amended by the Select Committee, were to stand, no transactions could take place between the parent company and its subsidiary, because the provision in the Select Committee's Report seeks to bring within the purview of section 91-B every transaction of a private company which is a subsidiary of a public company. I am quite agreeable that all transactions between the subsidiary company and outsiders should be governed by the restriction laid down under clause 45, namely, that interested directors shall not vote. The only exception I seek to make is where the transaction is between a subsidiary company and the parent company—then, I submit, in view of the fact that many subsidiary companies have the same board of directors as the parent company, no transaction would be possible, if the clause were to apply, and for that reason I have tabled this amendment. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 45 of the Bill, for sub-clause (b), the following be substituted :

‘ (b) To sub-section (5) the following proviso shall be added, namely :

‘ Provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 45, as amended, stand part of the Bill.”

The motion was adopted.

Clause 45, as amended, was added to the Bill.

Clauses 46 and 47 were added to the Bill.

Pandit Govind Ballabh Pant : Sir, I move :

“ That after clause 47 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 48. (1) Every managing agent shall disclose to the company every contract or arrangement entered into by or on behalf of the company in which he or any firm of which he is a partner or any private company of which such agent is a director, is directly or indirectly concerned or interested within fifteen days of the making of the contract or arrangement.

(2) Every managing agent who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees.

(3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies and which shall be open to inspection by any member of the company at the registered office of the company during business hours.”

This amendment follows the principle of section 91-A read with clause 44 of our amending Bill. Under the original Act as it is now provided in section 91-A of the Act and clause 44 of this Bill a Director is required to disclose to the company every contract or arrangement

[Pandit Govind Ballabh Pant.]

in which he is directly or indirectly interested and a register has to be maintained for all such contracts and arrangements, and it is further provided that such register should be open to inspection by shareholders. And I am extending the same principle to managing agents. As Honourable Members are aware, it has been accepted by this House on the initiative of Sir Homi Mody that in the case of contracts between the company and the managing agents the arrangement should be approved not by a majority only but by a majority of three-fourths of the directors, while, in the case of other contracts, a majority of the directors is considered to be adequate and effective. It is obvious from this distinction between the two that there is need for greater circumspection and scrutiny in the case of managing agents than in that of directors. How is that purpose to be attained? I will not take more time of the House, and I place it before the House for its acceptance.

Sir H. P. Mody : Before my friend sits down, I want to ask him one thing. He says 'shall disclose to the company'. By what procedure I want to know.

Pandit Govind Ballabh Pant : By giving a letter to the secretary or in any other manner just as the director has to disclose.

Sir H. P. Mody : No, the director's clause is quite different.

Pandit Govind Ballabh Pant : "The Company" in the Act means the man in charge of such affairs in the company at its registered office. There are such clauses all through the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That after clause 47 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

' 48. (1) Every managing agent shall disclose to the company every contract or arrangement entered into by or on behalf of the company in which he or any firm of which he is a partner or any private company of which such agent is a director, is directly or indirectly concerned or interested within fifteen days of the making of the contract or arrangement.

(2) Every managing agent who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees.

(3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies and which shall be open to inspection by any member of the company at the registered office of the company during business hours."

Mr. T. Chapman-Mortimer : Sir, I regret I have to oppose, and oppose most strongly, the amendment moved by my Honourable friend, Pandit Govind Ballabh Pant. He has suggested to the House, I have no doubt under a misapprehension, that there is no difference in principle between what he proposes in his amendment and, in the first place, clause 91-A of the Act as it stands, and, in the second place, between this amendment and the general idea underlying the amendment of my friend, Sir Homi Mody. Sir, I propose, if I may, to show to this House that that is not the fact. In the first case in regard to

91-A, my friend has conveniently forgotten to tell the House, there is a proviso, and a very important one too. That proviso says :

“ Provided that a general notice that a director is a member of any specified firm or company, and is to be regarded as interested in any subsequent transaction with any such firm or company, shall as regards any such transaction be sufficient disclosure within the meaning of this sub-section and after such general notice, it shall not be necessary to give any special notice relating to any particular transaction with such firm or company.”

I emphasise the words “ special notice ”, and I also emphasise the words “ particular transaction ”. My friend clearly is not a business-man, or he would not for one minute have dreamt of moving such an amendment as this. (*An Honourable Member* : “ Oh, Oh.”) In business every company every day has to transact through every hour of the day hundreds and hundreds of small transactions, and of course some big transactions, but in the case of many companies, they are transacting a large number of small transactions. Now, Sir, if the managing agent happens to be a director of a company which is transacting any one of these business dealings during the day, that managing agent will automatically be responsible for seeing that each one of these particular little transactions is automatically reported to the other company, of which he happens to be the managing agent. This is an entirely impractical proposition, as my friend would quickly realise if he had any practical experience of business management. The proviso to 91-A was put in quite deliberately, and it was put in precisely to enable these ordinary small transactions to be carried out without having on each occasion to notify the company of which he was a director, simply because he happened to be interested in it as a director or otherwise of the other company. That, Sir, is the first point. This amendment is not at all the same as 91-A.

Secondly, my Honourable friend suggested that because this House accepted my friend, Sir Homi Mody's amendment they should have no objection to his amendment today. The amendment of my friend, Sir Homi Mody, certainly did lay stress on the fact that when a managing agent entered into any special contract with a company under his management, a three-quarters majority would be required before that contract could obtain the sanction of the board of this company that he manages. That is one thing, but my friend, Mr. Pant, again conveniently forgot that in my friend, Sir Homi Mody's amendment there was no reference to any private company of which he was a director. That again is a very important point. If the managing agent should happen to be interested directly or indirectly in some company, or if he happens to be the director or in some other way connected with that company, he has instantly according to this amendment to give notice of every petty little transaction he does with the other company. To take the case of jute mills or cotton mills where the managing agent is also interested, for example, in coal. Under this amendment my friend, Pandit Govind Ballabh Pant, wants that when these companies do any kind of transaction, they will have to give notice....

Mr. President (The Honourable Sir Abdur Rahim) : Is the Honourable Member likely to go on for some time longer ?

Mr. T. Chapman-Mortimer : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Then the Honourable Member can resume his speech after Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Mr. T. Chapman-Mortimer : Sir before I begin, I should like to ask whether you will be prepared to read out the amendment which is now under discussion. My friend, Pandit Govind Ballabh Pant, is absent, but I understood him first to read one sheet and then another. I think that the amendment I have before me is the right one, but I should like to have a confirmation of that.

(After a pause.)

In conclusion, I should like to point out that the point of view put forward by Pandit Govind Ballabh Pant when he moved this amendment was firstly that it conformed to the principle of section 91-A, and secondly that it was in accordance with the terms of the amendment moved by my friend Sir Homi Mody. I am quite sure it is not in accordance with either. Sir, I strongly oppose the amendment of my friend, Pandit Govind Ballabh Pant.

Some Honourable Members : The question be now put.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 47 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 48. (1) Every managing agent shall disclose to the company every contract or arrangement entered into by or on behalf of the company in which he or any firm of which he is a partner or any private company of which such agent is a director, is directly or indirectly concerned or interested within fifteen days of the making of the contract or arrangement.

(2) Every managing agent who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees.

(3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies and which shall be open to inspection by any member of the company at the registered office of the company during business hours ’.”

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 48 stand part of the Bill.”

Amendment No. 152, Mr. Ayyangar.

Mr. M. Ananthasayanam Ayyangar : I don't move it, Sir. But I want to move the next one. No. 153. Sir, I move :

“ That in sub-clause (a) of clause 48 of the Bill, in the proposed clause (f), in item (ii) after the word ‘ business ’, where it occurs for the first time, the words ‘ a statement of ’ be inserted.”

Sir, this is a small verbal alteration I suggest, and I am trying to fill up a defect in the draft. At page 22 of the Bill it is stated in (f) ‘ where

any property referred to in clause (f) has within 2 years preceding the issue of the prospectus been transferred by sale, the amount paid by the purchaser at each such transfer.....and where any such property is a business, the profits accruing from such business....." and so on. I want to insert the words 'a statement of' after the word 'business' where it occurs for the first time. For this reason, Sir, if Honourable Members will refer to page 23 of the Bill, they will see that in sub-clause (1B) it is stated 'the statement referred to in clause (f) of sub-section (1) with respect to the profits of a business or company'. Here in this sub-section (1B) a statement is referred to in clause (ff). In clause (ff) there is no statement referred to as the Bill stands. I have therefore suggested the addition of these words. In sub-section (1B) the statement is referred to, whereas in sub-clause (ff) there is no reference to a statement at all. Therefore, to obviate any difficulty in future, it is desirable that the words I suggest should be inserted.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in sub-clause (a) of clause 48 of the Bill, in the proposed clause (ff), in item (iii), after the word 'business', where it occurs for the first time, the words 'a statement of' be inserted."

The Honourable Sir Nripendra Sircar : Sir, this amendment is wholly unnecessary. Sub-clause (ff) clearly shows that the profits accruing from such business must involve a statement. If my friend wants to add here the words "a statement of", I think we will have to change the wording in thirty different places. Is there really any ambiguity? If you have to state profits, it must be a statement of the profits. Sir, I oppose the amendment.

Mr. M. Ananthasayanam Ayyangar : Sir, I withdraw my amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Has the Honourable Member the leave of the House to withdraw his amendment?

Several Honourable Members : Yes.

The amendment was, by leave of the Assembly, withdrawn.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

"That in clause 48 of the Bill, in the proposed sub-section (1B) of section 93, for the words 'in clause (a) of sub-section (1A) with respect to the profits of a business or company' the words 'in sub-section (1A) with respect to the profits of a company or business' be substituted."

Sir, this is a very formal amendment, because, in sub-section (1B), reference is made to the statement. There is no clause (a), but in the latter section sub-section (1B) reference is made to clause (1A). Therefore, I want to make it clear. This is merely a formal amendment, and I hope the Honourable the Law Member will be pleased to accept it.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 48 of the Bill, in the proposed sub-section (1B) of section 93, for the words 'in clause (a) of sub-section (1A) with respect to the profits of a business or company' the words 'in sub-section (1A) with respect to the profits of a company or business' be substituted."

The Honourable Sir Nripendra Sircar : Sir, I accept the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 48 of the Bill, in the proposed sub-section (1B) of section 93, for the words ‘ in clause (a) of sub-section (1A) with respect to the profits of a business or company ’ the words ‘ in sub-section (1A) with respect to the profits of a company or business ’ be substituted.”

The motion was adopted.

Mr. Susil Chandra Sen : Sir, I move :

“ That in clause 48 of the Bill, after the proposed sub-section (1B) of section 93, the following sub-section be inserted :

‘ (1C) Where any part of the sums required for the matters set out in sub-section (2) of section 101 is to be provided out of sources other than share capital particulars of the amount to be so provided and the sources thereof ’.”

Sir, if you look at the amendments, we have provided that in a prospectus it has got to be disclosed as to how the amounts required for the business of the company are to be met. It is not always possible to do so out of the share capital. There are other sources like debentures and loans from which the required amounts may be provided for. There is nothing said in the Bill as regards disclosure of particulars of these amounts and the sources from which they are to be received. For this purpose it is necessary that this sub-section should be inserted. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 48 of the Bill, after the proposed sub-section (1B) of section 93, the following sub-section be inserted :

‘ (1C) Where any part of the sums required for the matters set out in sub-section (2) of section 101 is to be provided out of sources other than share capital particulars of the amount to be so provided and the sources thereof ’.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That for sub-clause (c) of clause 48 of the Bill, the following be substituted :

‘ (c) In sub-section (1)—

(i) for the words ‘ one year ’ the words ‘ two years ’ shall be substituted ; and

(ii) the following proviso shall be added at the end, namely :

‘ Provided that the said requirements, except the requirements as to the amount or estimated preliminary expenses, shall apply to a prospectus filed in pursuance of section 154 ’.”

Sub-section (1) lays down :

“ The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors and of managers or proposed managers and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business ”

I want that the period of one year should be extended to two years. In the English Act in paragraph 3 of the 4th Schedule it is laid down that two years is the period, after which the details need not be given. I require that the same period of two years should be introduced here. The reason is that they may wait to issue the prospectus till the completion of 13 months, in which case most of the important materials for persons taking

shares in the company would not be available at all. Before the commencement of business, a statement in lieu of prospectus might be issued, in which case several details need not be given. Therefore in order to see that the wholesome provisions of introducing various items which are necessary for shareholders are not cleverly avoided or evaded, the period of one year should be extended to two years. Normally a period of two years is sufficient to make every company issue a prospectus before it commences its business. I, therefore, move that this may be provided in accordance with the English Act.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That for sub-clause (c) of clause 48 of the Bill, the following be substituted :

‘ (c) In sub-section (4)—

(i) for the words ‘ one year ’ the words ‘ two years ’ shall be substituted ; and

(ii) the following proviso shall be added at the end, namely :

‘ Provided that the said requirements, except the requirements as to the amount or estimated preliminary expenses, shall apply to a prospectus filed in pursuance of section 154 ’.”

Mr. Susil Chandra Sen : Sir, I oppose the amendment and my reasons are these. My friend in moving the first part of his amendment said that his idea was to exclude any company from avoiding the provisions for disclosure of material facts in a prospectus by keeping quiet for 13 months from the incorporation and then issuing a prospectus. He has given no reasons for the second part of his amendment. Sir, I do not think my Honourable friend has given the attention which he usually gives to the clauses to which he moves amendments. If we look at sub-section (4) of section 93, which my friend wants to amend, it says this :

“ The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors, or proposed directors, and of managers or proposed managers, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.”

It really is contemplated to apply to the case of a prospectus which is issued by a company one year after the company commences business. The object of this exemption being that by that time these particulars are quite well-known, because the company has already commenced its business for over one year. I do not know, Sir, how my Honourable friend fixes the period of two years which he wants. His idea that he wants to see that a company may by issuing a prospectus at the end of thirteen months can evade the provisions of this section is as I have shown wrong. Then again my friend has forgotten to consider the provisions of section 162 of the Act, where it says that if a company does not commence business within one year, it will be liable to be wound up. Now no company will take that risk, and my friend's apprehensions that a company will wait for twelve months to evade the provisions are wholly unfounded. That is so far as the first part of the amendment is concerned. With regard to the second part, if my friend will look at the amendment—section 154 as it has been changed by this Bill, (*vide* clause 80) he will find that all these particulars are already provided for and that therefore his amendment is unnecessary.

Mr. M. Ananthasayanam Ayyangar : On a point of information, may I know if it is obligatory on a company to issue a prospectus within one year after the commencement of the business ?

Mr. Susil Chandra Sen : Such a thing is not possible. The company cannot commence business unless shares to the extent of the minimum subscription are allotted. That presupposes the issue of the prospectus. If it does not commence business it stands a chance of being wound up.

Mr. M. Ananthasayanam Ayyangar : It does, but it will creep on and crawl without issuing a prospectus. How do you provide for such cases ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That for sub-clause (c) of clause 48 of the Bill, the following be substituted :

‘ (c) In sub-section (4)—

(i) for the words ‘ one year ’ the words ‘ two years ’ shall be substituted ; and

(ii) the following proviso shall be added at the end, namely :

‘ Provided that the said requirements, except the requirements as to the amount or estimated preliminary expenses, shall apply to a prospectus filed in pursuance of section 154 ’.”

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 48, as amended, stand part of the Bill.”

The motion was adopted.

Clause 48, as amended, was added to the Bill.

Mr. M. Ananthasayanam Ayyangar : Sir I move :

“ That after clause 48 of the Bill, the following new clause be inserted :

‘ 48A. Section 96 of the said Act shall be re-numbered as sub-section (1) of that section and after the sub-section as so re-numbered, the following sub-section shall be added, namely :

‘ (2) It shall not be lawful to issue any form of application for the shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of section 93 :

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures ; or

(b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred rupees ’.”

Sir, the object of this amendment is that along with the form of the application a copy of the prospectus ought also to be sent. This provision is made in English Act by section 35, clause (3) thereof, which reads as follows :

“ It shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of the section and the proviso.”

and the proviso, as I have stated in my amendment, is as follows :

“ and also if any person acts in contravention ”,

etc. etc. ;

the penal provision is taken *verbatim* from the English Act. Sir, it is not only myself but my friend, the Honourable Mr. Sen, in his report also finds that that provision is absolutely necessary and that an amendment in accordance with the provisions laid down in the English Act should also be incorporated in the present Bill ; I believe by an oversight he has not included it. Usually, the company incurs a certain amount of expenditure, and, as regards the cost of printing the prospectus, well, the prospectuses will be in abundance and they will be sent along with the applications. After all, a person who subscribes to shares must know what it is all about, and blind-folded he ought not to enter into a contract. Honourable Members will see that in an earlier section all the conditions in the memorandum under section 21 are given ; he will find that not only the original persons, the subscribers, but all persons are put under notice,—all of them have been put in. Therefore, I say it is absolutely necessary that the persons who apply for the forms of applications must also have a copy of the prospectus, if really there is not to be any fraudulent practice. I request Honourable Members to turn to page 74 of the report prepared by my friend, Mr. Sen. He says that in section 93 that a provision analogous to sub-section (3) of section 35 of the new English Act should be inserted. Sir, I have done little more than merely to carry out what the expert has said in his report. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 48 of the Bill, the following new clause be inserted :

“ 48A. Section 96 of the said Act shall be re-numbered as sub-section (1) of that section and after the sub-section as so re-numbered, the following sub-section shall be added, namely :

(2) It shall not be lawful to issue any form of application for the shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of section 93 :

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures ; or

(b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred rupees.”

The motion was adopted.

New clause 48A was added to the Bill.

Dr. Ziauddin Ahmad : May I move, Sir, my amendment No. 3 on 3 P.M. Supplementary List No. 9 which relates to clause 48 ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : No. The Honourable Member was not in his seat when that amendment was called. Moreover, clause 48 has already been disposed of.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 52 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhamadan Rural) : Sir, I beg to move :

“ That in clause 52 of the Bill, in the proposed sub-section (1) of section 101 for the words ‘ no allotment shall be made of any share capital of a company offered to the public for subscription ’ the words ‘ no certificate to commence business shall be granted to a company ’ be substituted.”

Sir, clause 52 aims at preventing the floatation of mushroom companies—that is companies with insufficient capital. Nobody can have any quarrel with that ; at least I have none. But what I object to is, that, in my opinion, the clause overshoots the mark. As the clause is at present worded, it will make it impossible for persons with small means to float a company. People in my part of the country, that is, the United Provinces will find.....

Mr. M. S. Aney : May I ask whether clauses 49 to 51 have been put ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : Thank you, they have not been put. I will put them now. The question is :

“ That clause 49 stand part of the Bill.”

The motion was adopted.

Clause 49 was added to the Bill.

Clauses 50 and 51 were added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 52 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal : I was saying, Sir, that people in my part of the country, that is, the United Provinces, will find it very difficult to start companies with a small capital. I have personal experience of about a dozen companies promoted in Agra, Benares and Saharanpore. I am a director of about half a dozen of them. I know that it is very difficult for us to raise the capital required within two or three years. In many cases the companies provide that they shall proceed to allotment within a prescribed period and this period ordinarily extends from 3 to 6 months. This being the case, this section will work very hard on these companies. Besides this, it will lead to the concentration of business in the hands of very few capitalists. And capitalism is an unfailing mother of socialism and also of communalism and therefore I hope that even my Honourable friend, Sir Homi Mody, will support this amendment. Sir, the object of this clause can be achieved by making the raising of the capital specified as a condition precedent to the commencement of the business of the company. There is no need whatsoever for prohibiting the allotment of shares before the required number of shares have been subscribed. Mr. Sen, the expert, is also of the same opinion. He says :

“ In my opinion, the proper course to adopt with regard to mushroom companies would be to amend the Act in such a way that no company commences business until it has a substantial amount available as the working capital.”

In view of these reasons, I hope the House and the Leader of the House will accept my amendment. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 52 of the Bill, in the proposed sub-section (1) of section 101 for the words ‘ no allotment shall be made of any share capital of a company offered to the public for subscription ’ the words ‘ no certificate to commence business shall be granted to a company ’ be substituted.”

Mr. M. S. Aney : May I inquire from my Honourable friend whether, under the Act, is it necessary for any company to get a certificate before it can start its business at all ?

Sir H. P. Mody : Please see section 103 (2).

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. The idea of introducing clause 52 is to prevent the growth of what are called mushroom companies. From that point of view, in spite of the talk about capitalism and socialism, we offer much stronger protection than my friend's amendment will do. Our scheme is this. If you have not made satisfactory arrangements by share capital, by debentures or by arranging with banks and so on, you are not to proceed to allot at all. According to the amendment, there may be no real prospect of getting the money, yet you can go on allotting. In the end, if you find that the sufficient money has not been raised, then you need not ask for the commencement of the company or the certificate will not be given for commencing the business. I do not see what is gained by this amendment except that any attempt which we have made for going against these companies which start without raising sufficient capital or being in a position to raise sufficient capital, is still more attenuated by this amendment. Sir, I strongly oppose this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 52 of the Bill, in the proposed sub-section (1) of section 101 for the words ‘ no allotment shall be made of any share capital of a company offered to the public for subscription ’ the words ‘ no certificate to commence business shall be granted to a company ’ be substituted.”

The motion was negatived.

Pandit Sri Krishna Dutta Palwal : Sir, I move :

“ That in clause 52 of the Bill, in the proposed sub-section (1) after the word ‘ unless ’, occurring in the third line, the word ‘ half ’ be inserted.”

Sir, the arguments, which I used in support of amendment No 159, are applicable to this amendment also. Therefore, I move this amendment without speech. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 52 of the Bill, in the proposed sub-section (1) after the word ‘ unless ’, occurring in the third line, the word ‘ half ’ be inserted.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 52 of the Bill, in the proposed sub-section (1) after the word ‘ unless ’, occurring in the third line, the word ‘ half ’ be inserted.”

The motion was negatived.

Pandit Govind Ballabh Pant : Sir, I move :

“ That to clause 52 of the Bill, the following new sub-sections be added :

‘ 2B. In sub-section 4 of section 101 of the said Act for the word ‘ twenty ’ the word ‘ eighty ’ and for the word ‘ thirty ’ the word ‘ ninety ’ shall be substituted ’.”

With your permission, Sir, I propose to make a slight change in 2C. It does not affect the substance, but only there will be a slight change in the form of it :

“ 2C. All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank ”—

after this, Sir, I want to add these words—

“ as defined in the Reserve Bank of India Act until returned in accordance with sub-section (4) or until the certificate to commence business is obtained under section 103.”

Mr. Deputy President (Mr. Akhil Chandra Datta) : It is rather inconvenient. Will you please send it up to me in writing ?

Mr. F. E. James (Madras : European) : May I know how the amended form of the amendment stands ?

Pandit Govind Ballabh Pant :

“ 2C. All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank as defined in the Reserve Bank of India Act, until returned in accordance with sub-section (4) or until the certificate to commence business is obtained under section 103.”

Sir, it is not necessary for me to speak at length in support of this amendment. I appreciate the reasons which have induced the Government to tighten the provisions of section 101 in order to guard against mushroom companies. That will to a certain extent at least raise difficulties in suburban and backward areas, and a man may not be able to fulfil these conditions in four months. So I suggest he may be given six months. But there is the danger that the shareholders' money may be squandered if a longer period is given. In order to guard against that contingency, I suggest that all subscriptions received should be deposited in a scheduled Bank so that proper security may be ensured. That is the whole object of this clause, and I hope the House will accept it.

Mr. F. E. James : May I suggest for the convenience of the House that this amendment might be written out and circulated. Meanwhile, we can go on with some other amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Will Pandit Pant please write out the amendment and send it up to me ?

(Pandit Govind Ballabh Pant wrote out the amendment and handed it in to the Chair.)

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That to clause 52 of the Bill, the following be added :

‘ (2B) All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank as defined in the Reserve Bank of India Act until returned in accordance with the provisions of sub-section (4) or until the certificate to commence business is obtained under section 103.

(2C) In the event of any contravention of the provisions of sub-section (2C) every promoter, director, or other person knowingly responsible for such contravention shall be liable to a fine not exceeding Rs. 500.

2. In sub-section (1), for the word 'twenty' the word 'eighty' and for the word 'thirty' the word 'ninety' shall be substituted."

The Honourable Sir Nripendra Sircar : Sir, this is an improvement, and I accept the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That to clause 52 of the Bill, the following be added :

'(2B) All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank as defined in the Reserve Bank of India Act until returned in accordance with the provisions of sub-section (1) or the certificate to commence business is obtained under section 103.

(2C) In the event of any contravention of the provisions of sub-section (2C) every promoter, director, or other person knowingly responsible for such contravention shall be liable to a fine not exceeding Rs. 500.

2. In sub-section (1), for the word 'twenty' the word 'eighty' and for the word 'thirty' the word 'ninety' shall be substituted."

The motion was adopted.

The Honourable Sir Nripendra Sircar : Sir, before you put the next amendment, I desire to show to the House that a slight consequential change is necessary in the existing section 101, sub-section (1) which has now been amended.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Is it in clause 52 ?

The Honourable Sir Nripendra Sircar : In section 101, sub-section (1), which has now been amended.

Obviously there are three lines at the bottom of that long paragraph and there it is stated "one hundred and thirtieth day", and that ought to be changed to "one hundred and ninetieth day". If Honourable Members will refer to page 30, paragraph 4, after the words "seven per cent. per annum from the expiration of the one hundred and thirtieth day", but as a result of this amendment now, it ought to be changed to "one hundred and ninetieth" day. I formally move, Sir :

"That in section 101, sub-section (1), after the words 'expiration of' for the words 'one hundred and thirtieth day' the words 'one hundred and ninetieth day' be substituted."

Pandit Govind Ballabh Pant : The amendment should be in this form :

"That to clause 52 of the Bill, in the proposed new sub-section, after the words 'one hundred and' in sub-section (1) of section 101, the word 'ninety' be substituted for the word 'thirty'."

The Honourable Sir Nripendra Sircar : May I suggest that this is a small consequential amendment, and that it may be left over till tomorrow morning ?

Mr. Sami Vencatachalam Chetty (Madras : Indian Commerce) : In this connection, I should like to draw the attention of the Honourable the Leader of the House to the rate of interest which is payable in case a company is not formed according to the terms of this clause. So long

[Mr. Sami Vencatachelam Chetty.]

as the liability of investing that amount does not rest with the particular bank or banks, probably the rate of seven per cent. interest was justifiable, but now that you are making it obligatory for the promoters of companies to put this amount in scheduled banks, it is only such rates of interest as may be approved by such investments may be made payable.

The Honourable Sir Nripendra Sircar : If I may submit one word, it is for these reasons that I want this matter to stand over till tomorrow because there may be some force in the contention put forward by my Honourable friend, Mr. Sami Vencatachelam Chetty, that if they have got to return the money they have got $2\frac{3}{4}$ per cent. from the bank and are they going to pay seven per cent. At any rate no harm will be done if the further amendment I propose to clause 52 is allowed to stand over till tomorrow, because there is really not much dispute between us on this question.

Sir Cowasji Jehangir : The seven per cent. here mentioned is not merely to give an idea of what the money market is worth. It is to prevent these people from keeping the money longer than is necessary. There must be some damages if they keep longer and this is the only deterrent. Therefore seven per cent. ought to remain.

The Honourable Sir Nripendra Sircar : He is now restricted as to how the money is to be kept.

Pandit Govind Ballabh Pant : This is payable after default.

The Honourable Sir Nripendra Sircar : I do not want that this should be rushed through. It may wait till tomorrow.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The whole clause 52 will stand over till tomorrow.

The next amendment is in the name of Mr. M. Ananthasayanam Ayyangar. Amendment No. 162.

Mr. M. Ananthasayanam Ayyangar : Sir, I beg to move :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. In sub-section (1) of section 102, after the words ‘ and not later ’ the words ‘ or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting within one month after the date of the allotment and not later ’ shall be added ’.”

Sir Leslie Hudson (Bombay : European) : I rise to a point of order. Section 102 of the Act is not touched by the amending Bill, and, therefore, this amendment is not in order.

Mr. M. Ananthasayanam Ayyangar : There is absolutely no point of order in this. This amendment closely follows the provision contained in section 101 which has been amended. The amount that is to be repaid and the period of time are fixed. It is one month in certain cases as contemplated in section 102 and therefore this arises for consideration. The whole Bill including section 101 is now sought to be modified. This, I submit, is only consequential and therefore no point of order arises.

Mr. Deputy President (Mr. Akhil Chandra Datta) : It is in order. Clause 52 sections 101 and 102 both deal with allotment of share capital. The two sections are intimately connected with each other. In fact, section

102 only lays down the penalty for contravention of the provisions of section 101. I, therefore, rule that amendment No. 162 to amend section 102 is quite in order, although the Bill has left untouched section 102. The Honourable Member can now proceed with his speech.

Mr. M. Ananthasayanam Ayyangar : Even as regards the reason and the need for this amendment, I shall make a few observations. Sir, if an improper allotment is made even in contravention of the provisions of section 101 even before the minimum subscription is realised, it is open to any person who has obtained a share to void it. Section 102 lays down that within a month after the statutory meeting, it is open to the person to void it.

The Honourable Sir Nripendra Sircar : May I enquire what is the case where the statutory meeting is optional ? My Honourable friend's amendment refers to cases of companies which are not required to hold statutory meetings.

Mr. M. Ananthasayanam Ayyangar : In a case where a private company is converted into a public company under section 154 it is open to a private company to convert itself into a public company, all that it has to do is to file a prospectus, if one is issued, to file it before the Registrar. No statutory meeting is to be held in that case. If a prospectus is issued and if shares are taken and if allotment is to be made, there is no statutory meeting and if the allotment is made in contravention of section 151, it is open to him to void it. There is no statutory meeting at all prescribed, then how does one month after a statutory meeting arise. The whole provision would be nugatory. That is practically denying a person who is entitled to void it from doing so. That is a privilege which is given to him under the Company Law by not providing for a further period of limitation. I would therefore say that in cases where there is no statutory meeting prescribed, in case of private companies, notwithstanding the facility for converting them into public companies and in other cases where allotment is made after a statutory meeting is held, in these two cases, one month period must be given. The present section 102 contemplates cases where allotment is made, then a statutory meeting is held after the allotment is made and in which case under the present section 102, it may be open to avoid this month after the statutory meeting. By the amendment I want to give the same period of limitation to the other case where the statutory meeting is not at all prescribed and secondly where the allotment is made after the statutory meeting is held ; in which case the reason is obvious that one month's period should be allowed after the allotment. I move that my amendment may be accepted. There is a similar provision in section 41 of the English Act. I do not want to read the earlier portion of that section :

“ Where allotment is made by a company or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment and not later and shall be so voidable notwithstanding the company is in the course of being wound up.”

These two other contingencies I have sought to make provision for in this amendment.

Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. In sub-section (1) of section 102, after the words ‘ and not later ’ the words ‘ or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting within one month after the date of the allotment and not later ’ shall be added ’.”

The motion was adopted.

New clause 52-A was added to the Bill.

Seth Govind Das (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. After section 101 of the said Act, the following section shall be inserted, namely :

‘ 101A. (1) A company limited by shares shall not, after the commencement of the Indian Companies (Amendment) Act, 1936, directly or indirectly allot to a promoter or managing agent or the vendor of any property purchased or to be purchased by the Company, founder, promoter, management, deferred or other shares of a similar class to which are attached voting rights which, having regard to the nominal amount of the said shares, are in excess of voting rights attached to any of the other classes of shares in the company not being preference shares, having regard to the nominal amount of the shares of the said class.

(2) This section shall not apply to a private company not being a subsidiary company of a public company ’.”

I do not want to make a speech on this because the amendment speaks for itself. We know how majorities are made at the time of general meetings of companies and this amendment is moved to stop that kind of practice. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. After section 101 of the said Act, the following section shall be inserted, namely :

‘ 101A. (1) A company limited by shares shall not, after the commencement of the Indian Companies (Amendment) Act, 1936, directly or indirectly allot to a promoter or managing agent or the vendor of any property purchased or to be purchased by the Company, founder, promoter, management, deferred or other shares of a similar class to which are attached voting rights which, having regard to the nominal amount of the said shares, are in excess of voting rights attached to any of the other classes of shares in the company not being preference shares, having regard to the nominal amount of the shares of the said class.

(2) This section shall not apply to a private company not being a subsidiary company of a public company ’.”

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend made a very short speech but the matter really goes to the root of the present structure of Company Law. My speech will be equally short. On a previous occasion I pointed out that companies preserve to themselves the right of offering alluring terms including differential voting rights for attracting capital, and I made the point that because certain abuses have happened, if to remove those abuses this kind of

amendment is allowed, the net result, after balancing the opposing considerations, will be not progress but retardation of raising capital. Sir, I very strongly oppose this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. After section 101 of the said Act, the following section shall be inserted, namely :

‘ 101A. (1) A company limited by shares shall not, after the commencement of the Indian Companies (Amendment) Act, 1936, directly or indirectly allot to a promoter or managing agent or the vendor of any property purchased or to be purchased by the Company, founder, promoter, management, deferred or other shares of a similar class to which are attached voting rights which, having regard to the nominal amount of the said shares, are in excess of voting rights attached to any of the other classes of shares in the company not being preference shares, having regard to the nominal amount of the shares of the said class.

(2) This section shall not apply to a private company not being a subsidiary company of a public company ’.”

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 53 stand part of the Bill.”

The motion was adopted.

Clause 53 was added to the Bill.

Clause 54 was added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 55 stand part of the Bill.”

Mr. Surrya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Sir, my amendment is :

“ That in clause 55 of the Bill, after sub-section (5) of the proposed section 105B, the following new sub-section be added :

‘ (6) Where new shares are offered for sale on account of forfeiture, redemption or increase of share capital, they should at first be offered to the shareholders in proportion of their share or shares in the company ’.”

Sir, this amendment is necessitated by the fact that when we were discussing other sections an amendment was proposed that the directors and managing agents should not be allowed to increase the capital of the company or to offer new shares for subscription without the permission of the company. That amendment was lost. This amendment has been necessitated by that fact and I think the Law Member will accept it. We find that in the prospectus of most of the leading companies a provision is made that when new shares are offered for sale they are generally offered first of all to the existing shareholders. If this is accepted there is no fear of the managing agents or the directors purchasing these new shares without the knowledge of the company.

Some Honourable Members : What is a “ new share ” ?

Mr. Suryya Kumar Som : Suppose there are 50 lakhs of share capital of the company and only 25 lakhs are offered for subscription in the beginning. Sometimes further shares are not at all necessary to be called. The company goes on, earns a profit and no further shares are offered for sale. But circumstances may arise ; that in order to increase the establishment of the company or to increase its capital, the balance, that is, 25 lakhs is offered for sale. My proposal is simply this : when the managing agents or directors want to increase the capital of the company or get permission from the Government to increase the share capital or offer the remaining shares for subscription, my suggestion is that these shares should be offered to the existing shareholders in proportion to their shares. If they take it they have the best claim on those shares, if they are prepared to pay for them. I think this is an amendment which the Honourable the Leader of the House will accept.

The Honourable Sir Nripendra Sircar : Sir, may I point out to my Honourable friend that even those who agree to the principle involved here will object to the amendment, because " new shares " is so indefinite a term. But if my Honourable friend will turn to the next amendment, possibly the language of that is happier.

Mr. Suryya Kumar Som : Sir, I have no objection : I am not fighting for my amendment—I am only fighting for a provision like this being made. Sir, I do not move my amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Mr. Som does not move his amendment. Mr. Bajoria may move the next amendment.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I move :

" That in clause 55 of the Bill, after the proposed section 105B, the following new section be added :

' 105C. Where the directors decide to increase the capital of the company by the issue of new shares of the company, they shall offer the said new shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them respectively and shall offer for subscription to persons other than the existing shareholders only such portion of the new shares as has not been subscribed by the existing shareholders '."

I need not speak at length on this motion. The Assembly is aware that the relevant portion of Pandit Govind Ballabh Pant's amendment No. 10 was rejected. As the Government is going to accept this, I need not speak.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

" That in clause 55 of the Bill, after the proposed section 105B, the following new section be added :

' 105C. Where the directors decide to increase the capital of the company by the issue of new shares of the company, they shall offer the said new shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them respectively and shall offer for subscription to persons other than the existing shareholders only such portion of the new shares as has not been subscribed by the existing shareholders '."

The Honourable Sir Nripendra Sircar : Sir, I accept this amendment. I am not quite sure whether we are quite correct about our

grammar because I did not follow it very carefully. I think it reads like this, substituting "further" for "new":

"Where the directors decide to increase the capital of the company by the issue of further shares of the company, they shall offer the said shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them respectively and shall offer for subscription to persons other than the existing shareholders only such portion of the said shares as has not been subscribed by the existing shareholders."

It comes to this: that, in the second line, the word "new" is changed to "further": in the third line, the word "new" is struck out, and, in the last but one line, the word "new" is substituted by the word "said".

Babu Baijnath Bajoria : Sir, I accept.

The Honourable Sir Nripendra Sircar : I accept the amendment.

Pandit Govind Ballabh Pant : Sir, may I just put in a word and ask whether it will apply only to new capital, that is capital to be raised by the company, or whether it will also apply to unoffered shares which though included in the authorised capital had not been offered previously? Because if I remember aright, when I raised this question here this view seemed to be shared by the Government also that when such shares are issued the directors should not abuse the power they possess and allot such shares to themselves but that in every case such shares should be offered to the shareholders. If that purpose is not fully carried out by the present language, I wish that it may be slightly amended. I do not know whether the Law Member accepts the principle or not—if he does not accept the principle then the question of language evidently does not arise. But if he accepts the principle that wherever unoffered capital is offered for new shares, then both stand exactly on the same footing and there is no reason why the directors should be left free to distribute the shares between themselves in one case and restrained in another. In these circumstances I submit that this should cover both the case of increase in capital where the authorised capital itself is raised, as well as the case where part of the authorised capital not previously offered to the public is so offered.

Sir H. P. Mody : The two are not on the same footing.

Pandit Govind Ballabh Pant : They should be on the same footing, for the purposes of this clause. Of course they are not on the same footing in every respect: the one is called by one name and the other by another.

Sir Cowasji Jehangir : The authorised shares can only be issued at the prices originally stipulated.

Pandit Govind Ballabh Pant : Not necessarily.

The Honourable Sir Nripendra Sircar : I have accepted the amendment as it has been moved, and I am not prepared to go further at this moment without further consideration.

Mr. M. S. Aney : There is one thing I do not understand. What is the meaning of the word "respectively" in the amendment?

Sir Cowasji Jehangir : It means that ordinary shares can only be issued to ordinary shareholders and preference shares to preference shareholders.

Mr. M. S. Aney : I think the word " respectively " is redundant.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The word " respectively " goes out ?

The Honourable Sir Nripendra Sircar : Yes, Sir.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

" That in clause 55 of the Bill, after the proposed section 105B, the following new section be added :

' 105C. Where the directors decide to increase the capital of the company by the issue of further shares of the company, they shall offer the said shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them and shall offer for subscription to persons other than the existing shareholders only such portion of the said shares as has not been subscribed by the existing shareholders '."

The motion was adopted.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

MESSAGE FROM HIS EXCELLENCY THE VICEROY AND GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : I have received a Message from His Excellency the Viceroy and Governor General :

" In exercise of the power vested in me by sub-rule (2) of rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. Muhammad Ahmad Kazmi to move the adjournment of the House for the purpose of considering ' the failure of United Provinces Local Government in continuously prohibiting in Lucknow the recital of Madhe-Sahaba even by single persons and thus permanently banning an innocent, inoffensive, religious right and committing an interference with Muslim religion ', on the ground that the motion relates to a matter which is not primarily the concern of the Governor General in Council.

(Sd.) LINLITHGOW,
Viceroy and Governor General.

THE INDIAN COMPANIES (AMENDMENT) BILL—contd.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

" That clause 55, as amended, stand part of the Bill."

The motion was adopted.

Clause 55, as amended, was added to the Bill.

Clauses 56 to 63, both inclusive, were added to the Bill.

Mr. Amarendra Nath Chattopadhyaya (Burdwan Division : Non-Muhammadian Rural) : Sir, I move :

“ That after clause 62 of the Bill, the following new clause be inserted, and the subsequent clauses be re-numbered accordingly :

‘ 64. Before section 126 of the said Act, the following shall be inserted and the said section shall be re-numbered as 126 (1) :

‘ 126. That a company limited by shares, shall have power under this Act to issue debentures subject to the guarantee by the Government the amount and conditions of such issue shall receive the prior approval of Government, provided always that Government shall charge a commission not exceeding 1 per cent. of the total amount of such issue and further provided that the amount thus collected from commission shall be placed in a special fund for re-imbursing any loss in such guarantee.

That Government will set up necessary Committees to properly discharge the functions of the above clause.”

Sir, this is a new clause which was never contemplated by the framers to form a part of the Bill—it is indeed a new idea which may or may not be accepted. Therefore, I shall request the Honourable House to give me a patient hearing. After reading the Bill and the amendment by the Select Committee, I found that the framers of the Bill had taken more care to stick to the saying that prevention was better than cure while they should have tried to find the cure for the disease they wanted to get rid of. This is a Government Bill, and as such the framers should have introduced such a clause as would induce the Government to be more helpful for the promotion and protection of Indian industries, but as they have not done so, I am trying to help them by introducing such a clause. Promoters of companies, however honest, laborious, intelligent and well meaning, they might be, they have to seek the shelter of the capitalists, large, medium or small, in consequence of which they have to subject themselves to their terms which these enactments cannot control, avoid or prevent. Only big capitalists can form a managing agency office without calling for public shares and yet be a public company. They can withhold the sale of shares so long as they like. It is only in India that this managing agency system has become indispensable because capital is shy. The dearth of banking facilities and the apathy of Government are the main causes for this shyness of capital. Had Government taken more interest in the development of industries, capital would have been flowing and the managing agency system would have disappeared by this time. In the Industrial Conference of 1890 it was said :

“ No fact in the economic condition of this country arrests more forcibly our attention than the contrast presented by the hoards of unused capital stored in the Presidency and other exchange banks and the high premiums Government securities command on the one side and on the other the utter paralysis of industry in rural India due to the poverty of the resources of the class engaged in the production of wealth. It would appear as if some impenetrable barrier intercepted the overflow of wealth and barred the channels of communication between the reservoirs of capital and parched fields of industries dried up for want of wealth-bearing and fertilising moisture.”

This fact should have loomed large before the framers of the Bill, if nothing else. Exploitation loomed large before them but they lost sight of the system that made exploitation so easy and possible, and they should have taken care to be a little more helpful. The financial requirements of industries should have been considered by the framers

[Mr. Amarendra Nath Chattopadhyaya.]

of the Bill as they examined the provisions in the light of the present times. They should have added clauses to this Bill on that line. Sir, here we have no such commercial banks or State-aided banks as would advance loans for industrial purposes or to help *bona fide* companies to overcome their financial struggle and stand on their own legs. Large number of young Indians are coming back from foreign countries trained in various branches of industries. How many of them have got scope for employment? Is it not a part of the duties of Government to see that they are utilised for the development of industries. Indian witnesses in the Central Banking Enquiry Committee spoke about the handicaps in the following words: "Banks in India do not provide finance for block capital for industries though there is no reason why such finance should not be provided by them out of their paid up capital and reserves if adequate securities are offered".

Banks could have rendered much assistance by purchasing debentures and passing them to the public. By this the public as well as the industrialists might be benefited. For floating capital, banks demand 30 to 50 per cent. margin and large rate of interest. Banks insist upon tangible and easily realisable securities never respecting the personal credit or integrity of the borrower. Fortunately such is not the case with banks in the West or in America or with Europeans in India. This striking contrast should have led the framers to add the clause I want to be added to this Bill or some such clause as would help Indian industrialists in the real sense.

Managing agents have done their best no doubt but in times of acute depression they cannot cope with the situation and then who else but banks or in the absence of such banks Government should come forward to their rescue. Banks complain that they are not generally equipped with necessary technical knowledge about value of stock and plants and tools which prevents them from risking advances. Government have no such handicap. Short term loans to small industries are uncertain as at any time they can be stopped and return of advances be demanded. Capital for industry in India is not forthcoming and financing by floating debentures is not popular here as it is elsewhere. Why? Want of advisory industrial boards and more faith in the safety of investments in savings banks and cash certificates and Government securities. Whenever and wherever Government is at the back of any investment people feel secured against loss. The absence of secured debentures is also a handicap. There are other handicaps like heavy stamp duties on debentures and on transfer of debentures and difficulty in negotiating debentures in the stock exchange. The success of debentures depends upon the nature of security offered and attractiveness of yield. In spite of this sort of difference shall we solely depend upon private and public shares and leave Government free from any responsibility? Let us see what is done in Germany....

Mr. President (The Honourable Sir Abdur Rahim): I wanted to see what is the real scope of the amendment. It seems to me now that this amendment has really nothing to do with the Bill. You want a different scheme altogether for the promotion of companies. I do not think that is really within the scope of the Bill.

Mr. Amarendra Nath Chattopadhyaya : The object of the Bill is to promote companies.

Mr. President (The Honourable Sir Abdur Rahim) : I do not think this is really within the scope of the Bill at all. I rule this out of order. The question is :

“ That clause 64 stand part of the Bill.”

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

“(3) If a company makes default in complying with the requirements of this section, the company and every officer of the company who has by his own wilful act been the cause of such default shall be liable to a fine not exceeding two hundred rupees.”

This amendment seeks to amend sub-section (3) of the proposed section 130. Before I deal with the points involved in the amendment, I shall read sub-section (3) which runs as follows :

“ If in the case of a company managed by a managing agent the managing agent or where the managing agent is a firm or a company any partner or director of such firm or company and if in any other case a director of the company fails to take all reasonable steps to secure compliance by the company with the requirements of this section or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand rupees.”

The requirements of this section are that every company shall cause to be kept proper books of account with respect to all sales and purchases of goods by the company and the assets and liabilities of the company and entries must be made in them of the transactions of the company.

Now, Sir, it is provided in sub-section (3) of the proposed section 130 that if either the managing agent or a partner of the firm or company of managing agent or a director “ fails to take all reasonable steps to secure compliance by the company with the requirements of this section ”—that is one offence. The other offence is if any of these persons has by his own wilful act been the cause of any default by the company thereunder—that is offence No. 2,—then the penal provision is that he shall, in respect of “ each ” offence be liable to imprisonment for a term not exceeding six months or to a fine not exceeding Rs. 2,000. Then there is a proviso :

“ Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the Court dealing with the case, the offence was committed wilfully.”

Now, Sir, my contention is that these provisions are too drastic. They may be necessary in the case of some dishonest people but they will, I submit, prove unjust and unnecessary burdens on honest people. If anybody has by his own wilful act been the cause of any such default, he should be punished by all means. There is no quarrel about that. But my complaint is that even with respect to the ordinary director it is laid down that if he fails to take all these steps to secure compliance with the requirements of this section, he shall be liable to imprisonment or fine. My contention is that a director stands on quite a different footing from a managing agent or a manager or even a

[Mr. Akhil Chandra Datta.]

managing director. We were told by the Honourable the Law Member in his speech during the general discussion as to what is the precise position of the ordinary director. It is not expected of an ordinary director—I am not speaking of a managing director—to pay continuous attention to the company's affairs and to all the details of the business of the company. His duties are of an intermittent nature to be performed at Board meetings or committee meetings. I agree with the dictum that a director is not a whole-time servant of the company, as the managing agent is, or as the manager is, or for that matter as the managing director is. As we know from our experience of the duties performed by the directors in our country, that this is really the position of a director and therefore, I say this that if you expect the ordinary director to attend to all those details, for example, whether entries are made in the account-books of the company about all sums of money received and expended, and about all sales and purchases of goods by the company, I maintain this is expecting too much. I wonder, Sir, how the ordinary director should take care of all of these things, failing which, as it is provided here, he must undergo imprisonment or suffer a fine.

Sir H. P. Mody : May I inquire whether the object of my Honourable friend is really to say that as in sub-section (3) of section 130 the words which lay down that the directors must take all reasonable steps to secure compliance are objectionable?

Mr. Akhil Chandra Datta : That is one of the things I want. It would appear from the amendment I have moved that as a matter of fact I have omitted these words. Sir, there are two offences laid down in this sub-section (3). One is that if by their wilful and deliberate act they have been the cause of a default, I say let them be punished, but as regards the other portion, *viz.*, that if they fail to take reasonable steps to secure compliance with these entries being made of all purchases of goods by the company, etc., I think that is going too far, it is expecting and exacting too much from the ordinary director : and therefore my contention is that this portion of the two offences laid down here—the first offence (*viz.*, failure to take reasonable steps) should be omitted. The second point in this amendment is that here it is stated that he shall in respect of each offence be liable to conviction. Now, what is the meaning of “each” offence? In the first place, it is very indefinite and vague. If there is one entry not made in the account books which ought to be made, that by itself is an offence, and the following day there will be another such offence, and so on and so on. I say therefore that the word “each” should be substituted by the word “such”. Then my next contention is that supposing a director is to be punished like that, that is, for not looking after all the details of the business, is it proper that there should be this provision for imprisonment, for a term not exceeding six months?

Sir H. P. Mody : Grossly improper !

Mr. Akhil Chandra Datta : I should think it is too drastic, and the result will be to scare away all honest men from being directors. Sir, in the present stage of our country, nobody would like to be a director under these provisions. Then I object also to the amount of the fine. Rs. 2,000. We are not legislating merely for the big companies : all

these provisions will cover the smaller companies also. Now supposing a managing agent or a director is found guilty of not having proper entries made in the account-book of any small company, this provision of a fine up to Rs. 2,000 is really unduly severe.

Then, Sir, I object to the proviso also. The proviso says that "a person shall not be sentenced to imprisonment.....unless in the opinion of the Court.....the offence was committed wilfully". It follows by necessary implication from this proviso that if that offence is not committed wilfully, even in that case all these persons may be liable to a fine not exceeding Rs. 2,000. If the default is a default due merely to neglect, the proviso lays down that, even in that case, a man may be liable to a fine not exceeding Rs. 2,000. Therefore, my amendment is this, that if a company makes a default in complying with the requirements of this section, the company and every officer of the company who has done any wilful act, who has by his own wilful act been the cause of such default, shall be liable to a fine not exceeding two hundred rupees. Sir, I move.

The President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

- (3) If a company makes default in complying with the requirements of this section, the company and every officer of the company who has by his own wilful act been the cause of such default shall be liable to a fine not exceeding two hundred rupees."

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend has got five amendments from Numbers 4 to 9 on this Supplementary List No. 9—all relating to the same matter.

Mr. Akhil Chandra Datta : And if this is carried, I shall not move them.

The Honourable Sir Nripendra Sircar : I may say at once that I object to the amendment which has just now been moved. I admit that there is a considerable force in some of the arguments advanced by my Honourable friend, Mr. Datta. I should be prepared to accept No. 5 if he will accept the modifications I suggest. I leave the first three lines of that amendment unchanged and in the fourth line after the word "knowingly" I suggest the words "by their act or omission" to be added in place of "and by their own wilful act". Then the amendment goes on as it is and at the end I substitute the words "one thousand" for "five hundred". I would not agree to Rs. 500 for this reason. It is quite true that a company may be a small company, but the language is not "exceeding two thousand rupees". The Magistrate is not bound to fine him Rs. 2,000. If the maximum is kept at Rs. 1,000 and if my friend sees his way to accept the slight change I have suggested in his amendment No. 5, I do not think I shall object to it.

Mr. Akhil Chandra Datta : If I have understood my Honourable friend correctly, the two alterations that he has proposed are these. In the first place, after the word "knowingly" instead of the words "and by their own wilful act" he wants that the words should be "by their act or omission". The other change that he has proposed is that instead of Rs. 500 he wants Rs. 1,000.

The Honourable Sir Nripendra Sircar : That is what I have suggested.

Mr. Akhil Chandra Datta : Sir, I agree to these changes being made, and I withdraw the amendment that I have just moved and shall move the next amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Akhil Chandra Datta : Sir, I move :

“ That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

‘ (3) In the case of a company managed by a managing agent the managing agent, or where the managing agent is a firm or company, the partner or director of such firm or company and in any other case the director or directors who have knowingly by their act or omission been the cause of any default by the company in complying with the requirements of this section, shall in respect of such offence be liable to a fine not exceeding one thousand rupees ’.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

‘ (3) In the case of a company managed by a managing agent the managing agent, or where the managing agent is a firm or company, the partner or director of such firm or company and in any other case the director or directors who have knowingly by their act or omission been the cause of any default by the company in complying with the requirements of this section, shall in respect of such offence be liable to a fine not exceeding one thousand rupees ’.”

The motion was adopted.

Mr. Akhil Chandra Datta : Sir, I move :

“ That in clause 64 of the Bill, the proviso to sub-section (3) of the proposed section 130, be omitted.”

I have already explained the reasons in support of this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 64 of the Bill, the proviso to sub-section (3) of the proposed section 130, be omitted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 64, as amended, stand part of the Bill.”

The motion was adopted.

Clause 64, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 65 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in sub-clause (c) of clause 65 of the Bill, after the words ‘ shall be substituted ’ the following be added at the end :

‘ and for the words ‘ seven days ’ wherever they occur the words ‘ fourteen days ’ shall be substituted ’.”

Notice of a general meeting has to be given 14 days before it takes place and the balance-sheet may be sent within 7 days. I want that the balance-sheet must also be placed in the hands of the members 14 days before the meeting. All that I want is that the balance-sheet may also be sent along with the notice. It will spare additional expenditure of the company which is incurred by sending the balance-sheet separately and it will also facilitate the work at the meeting where the balance-sheet has to be discussed.

Sir H. P. Mody : If the balance-sheet is not ready, what then ?

Mr. M. Ananthasayanam Ayyangar : If the balance-sheet is not ready, then there is no question of holding a general meeting. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (c) of clause 65 of the Bill, after the words ‘ shall be substituted ’ the following be added at the end :

‘ and for the words ‘ seven days ’ wherever they occur the words ‘ fourteen days ’ shall be substituted ’.”

Sir Leslie Hudson : Sir, I am sorry to have to oppose this amendment both on the ground of its being unnecessary and also because it is inconvenient. It is quite true that the notice of a meeting has to be sent out 14 days before the meeting takes place. That has always been the case unless the articles provide otherwise. But the Act has provided that the balance-sheet shall be called for 7 days before the meeting. I may point out, in this connection, the case of a certain company that I know of in Bombay. This company closes its year at the end of December and it has its meeting in March. It is not possible for it to send out its accounts before the end of March.

Now, Sir, that particular company sends out its notice of meeting at the beginning of March, but it is not possible for it to send out its balance-sheet before the end of March because the accounts, as I understand, can only be got ready a week before that. The result of holding its meeting before the end of March is that the shareholders in the company get their dividends before the end of March and they are able to get the refund of their income-tax in that income-tax year. But if the balance-sheet has to be sent out 14 days before the meeting, the meeting cannot be held until after the 1st April, and they will not be able to get their refund of income-tax until the close of another year. That, I submit, is a distinct hardship on those shareholders. As a matter of fact, these shareholders have always held out that it is a hardship on them that the dividends are not paid to them before the beginning of April and for that reason alone it is sufficient to oppose this amendment.

Mr. Bhulabhai J. Desai : Sir, with due deference, everything that falls from my Honourable friend, Sir Leslie Hudson, must be business-like. But so far as this particular matter is concerned, it is rather difficult for me to appreciate its effect, as to what difference it makes as the result of a week's time on the question of revision of income-tax. This rather beats me. The fact remains however that you do not get ready for a meeting under the present Act until you give notice. The notice requires that you shall have what are called statements

[Mr. Bhulabhai J. Desai.]

of business in greater detail than used to be compulsory before. You could not have come to any conclusion regarding the calling of a meeting and the matters to be placed before it unless the balance sheet is ready. I dare say you will be doing it, but I cannot imagine any Board of Directors or managing agents deciding to call a meeting, nominating a day for it and sending out notices for it and not knowing how their balance sheet stands. With due deference on this occasion I am afraid I cannot accept the view put forward by my Honourable friend, Sir Leslie Hudson.

Sir H. P. Mody : Sir, I am afraid the condition laid down by the amendment in some cases will be obnoxious and in most cases will be unnecessary. After all, what the shareholders are really concerned with is having 14 days notice within which to prepare for the things which they want done at the general meeting of the shareholders. Most of the materials are before them. What are the shareholders interested in? The appointment or the removal of particular directors, and the payment of dividends : these matters are before them long before the notice is sent out to the shareholders. The dividends are passed by the Board of Directors and they are known in the market the very next day, if not the same evening.

Mr. Bhulabhai J. Desai : When the balance sheet is made, you recommend a declaration of dividend.

Sir H. P. Mody : Having approved the accounts before them, they declare a dividend long before the actual meeting is held. What is the reason for laying down that the balance sheet shall also be submitted 14 days before to the shareholders? In most cases this would be done because the directors are not so foolish as to send out a notice first and then incur the expenditure of sending out the balance sheet. But what my Honourable friend, Sir Leslie Hudson, was pointing out was that in some cases the balance sheet may not be ready, and yet it would be desirable to give fourteen days notice of the date of the meeting to the shareholders. I submit that my Honourable friend is not well advised in insisting upon issue of the balance sheet 14 days before the meeting.

The Honourable Sir Nripendra Sircar : Sir, I admit, I am very ignorant of business. But I have got with me some notices sent out by well known companies. Let me read two or three out of that bundle. This is Burn and Company Limited. The notice is issued on 8th September, and the date of meeting 17th September, 11 a.m. is fixed for the purpose of receiving and considering the Director's report, the statement of account and the balance sheet for the year ending 30th April, 1936, and to transact any other ordinary business of the company. The notice is dated 8th September and along with the notice—that is the important point—the audited accounts and balance sheet is given. I will now take up another company, the Titaghur Paper Mills. On 27th May, a notice is issued for a meeting on 24th June and here are the accounts. Apparently these are heartless people, who never care for the incometax returns of the shareholders. Sir, I accept the amendment.

Mr. President (The Honourable Sir Abdur Rahim): The question is :

“ That in sub-clause *c* of clause 65 of the Bill, after the words ‘ shall be substituted ’ the following be added at the end:

‘ and for the words ‘ seven days ’ wherever they occur the words ‘ fourteen days ’ shall be substituted ’.”

The motion was adopted.

Babu Baijnath Bajoria : Sir, I beg to move :

“ That the proposed sub-clause (*d*) of clause 65 of the Bill be omitted.”

Sir, sub-section (4) of section 131 is a penalty clause. It reads :

“ If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding Rs. 1,000 and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.”

I am surprised why this sub-section is sought to be omitted. Section 131 of the Act provides for the placing of the balance sheet and the profit and loss accounts duly audited with the auditors report before the general meeting at least once a year. If there is no penal clause Honourable friends like Sir H. P. Mody and men of that type might feel never called upon to place any balance sheet or profit and loss accounts before the general meeting. The Registrar of the Joint Stock Companies, Bengal, says that sub-section 4 should not be omitted as the records of his office show that that sub-section has been serving a very useful purpose and there is no reason why it should be omitted.

The Honourable Sir Nripendra Sircar : If I may clear a misapprehension of facts. My Honourable friend's idea is to keep the penalty clause. It is quite true we have removed it from here, but you will find that again in clause 69.

Mr. Bhulabhai J. Desai : What about not calling a meeting at all. We have had prosecutions both for not meeting as well as failure to call for a meeting.

The Honourable Sir Nripendra Sircar : The words are ‘ laying ’ and ‘ issuing ’.

Mr. Bhulabhai J. Desai : If that is covered I have no objection. I only want to clear the point :

“ If any default is made in laying before the company or in issuing a balance sheet required by section 131..... ”.

In terms it reads as if even though a meeting is called, you may not lay it. But it does not affect the question where there is default in calling a meeting at least within 15 months.

The Honourable Sir Nripendra Sircar : If the Honourable Member will allow me to consider it when we reach clause 69, we will see about it.

Mr. Bhulabhai J. Desai : I have no objection.

Babu Baijnath Bajoria : Sir, I beg leave of the House to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 65, as amended, stand part of the Bill.”

The motion was adopted.

Clause 65, as amended, was added to the Bill.

Clause 66 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 67 stand part of the Bill.”

Mr. L. C. Buss (Nominated Non-official) : Sir, I beg to move :

“ That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, before the words ‘ the profit and loss account ’ the words ‘ unless otherwise determined by the company in general meeting ’ be inserted.”

Sir, I may first point out that there is no provision in the English Act for such a disclosure as is contemplated in this clause. We on these Benches consider that the information proposed to be provided is likely to be most misleading and therefore undesirable in the form of a broadcast statement in the company's accounts. In this connection, I have three points to raise. Firstly, the shareholders have means of knowing all the details of the managing agency agreement and of the scale of remuneration paid to the directors. Secondly, they have the auditors' reports on the balance-sheet and the profit and loss account of a company as a guarantee that the terms of remuneration have been correctly complied with. Thirdly, it is open to any shareholder to ask questions about the accounts at the general meetings and he can therefore ask, if he wishes to do so, for the information called for in this clause. We realise, however, that there is a considerable volume of feeling in favour of giving the shareholders the formal right to ask for the particulars of fees, and so on, paid to the managing agents and directors. The amendment, therefore, does not propose deletion of the clause ; it proposes that the shareholders should have the right but that they should have the further right of determining whether they wish to exercise the right to insist on disclosure of the information in the profit and loss account. As the clause stands, the shareholders have no discretion in the matter, and my submission is that they should have this discretion Sir. I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, before the words ‘ the profit and loss account ’ the words ‘ unless otherwise determined by the company in general meeting ’ be inserted.”

Mr. Susil Chandra Sen : Sir, I am sorry to oppose this amendment. The position is this. For the first time in the Indian Companies Act we are providing for the preparation of a profit and loss account compulsorily. It was not there before. Now, Sir, the profit and loss account is intended to be an account which gives a just idea of the profits and losses of the company by disclosing the income and expenditure. Sir, we know that complaints have been made by the shareholders, (and this will be borne out by the materials which are

all before my Honourable friends), that the shareholders have been generally kept in the dark by the managing agents as regards the remuneration charged by them, firstly in the shape of fees, sometimes in the shape of commission, and sometimes in the shape of remuneration for indirect services rendered. It was for that purpose that it has been provided in this clause that apart from anything else, these particular items relating to the fees, etc., of the managing agents must be disclosed.

I find that my Honourable friend, Mr. Buss, made three points. He first of all said that the shareholders have the means of knowing the terms of the managing agency agreement and the remuneration which the managing agents will be entitled to get. Let us assume that, this is correct. But there are many factors which determine what is the actual amount of remuneration which they in fact get. That depends in some cases on production, in some cases on sales and in some cases on purchases. Where are the details to be obtained by the shareholders? Without these, they really can get no particulars of the remuneration and to say that the basis of the calculation is available to the shareholders is not sufficient. It does not give them all the information which they are entitled to. Then my Honourable friend said that there is the auditors' report to show that everything is above board. That again is no consolation to the shareholders who want to know actually what the managing agent has got during the period for which the accounts are in issue. The third point made by my Honourable friend is that the shareholders may not like to have the information. They are given no option of saying that they do not want it. I do not know, if there is any shareholder who is likely to say he does not want it. On the contrary I should imagine the shareholders saying, "Save us from our friends". Sir, with these observations I oppose the amendment.

Mr. L. C. Buss : Sir, if I may say so, the third point is not as Mr. Sen said. I said that they had the right to ask for information at the meetings and they can get it.

Mr. Susil Chandra Sen : I am sorry, Sir, I did not catch my friend correctly but still the same objection holds. If they can give it at the meeting why can't they give it before the meeting. Is it because they do not want to disclose it openly?

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, before the words 'the profit and loss account' the words 'unless otherwise determined by the company in general meeting' be inserted."

The motion was negatived.

Sir Leslie Hudson : Sir, I beg to move :

"That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, for the words 'shall be included in the total amount shown as the remuneration of the directors of the company' the words 'shall be shown in a note at the foot of the account or in a statement attached thereto' be substituted."

It does not seem quite appropriate that in publishing a profit and loss account of a holding company there should be any reference to directors' fees from subsidiary companies entered therein. In the first

[Sir Leslie Hudson.]

place they would find no place in the accounts. They would unbalance the accounts, and therefore I think it is obvious that if they are to appear at all they should appear as a footnote to these accounts. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, for the words ‘ shall be included in the total amount shown as the remuneration of the directors of the company ’ the words ‘ shall be shown in a note at the foot of the account or in a statement attached thereto ’ be substituted.”

Dr. Ziauddin Ahmad : Sir, I regret I could not follow Sir Leslie Hudson’s argument because the profit and loss account is very different from the balance-sheet. In a balance-sheet you cannot put these things, but in a profit and loss account you ought to show all the details, not in the footnotes but in the body of the report. So I really could not follow the argument on which he based his amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, for the words ‘ shall be included in the total amount shown as the remuneration of the directors of the company ’ the words ‘ shall be shown in a note at the foot of the account or in a statement attached thereto ’ be substituted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 67, as amended, stand part of the Bill.”

The motion was adopted.

Clause 67, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 68 stand part of the Bill.”

Mr. T. Chapman-Mortimer : Sir, while we are not moving amendment No. 13 on supplementary list No. 3, I should like to draw the attention of the House to the proviso to section 132A (1) in clause 68.

Mr. President (The Honourable Sir Abdur Rahim) : Is not the Honourable Member moving No. 13 ?

Mr. T. Chapman-Mortimer : No, Sir. But I should like your permission to draw the attention of the House to the proviso to section 132A (1) in clause 68. It does not arise out of amendment No. 14 which I am going to move now. With your permission I should like to say a word on it. The point is that that proviso is taken from the English Act.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member wish to move amendment No. 14 ? If he does not, that is another matter.

Mr. T. Chapman-Mortimer : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Then, the Honourable Member had better move that.

Mr. T. Chapman-Mortimer : Yes, Sir. I want to move No. 14 in list No. 3. I move :

“ That in clause 68 of the Bill, to sub-section (1) of the proposed section 132A, the following further proviso be added :

‘ Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent. or more of the shares of another company.’ ”

Sir, the reason for the moving of this amendment is as follows : The whole section, as I understand, is taken *en bloc* from the English Act ; but the Select Committee, when the Bill was under discussion by them, inserted the words “ the last audited balance-sheet, profit and loss account and auditors’ report of the subsidiary company or companies ” : that is to say, that these audited reports and accounts should appear attached to the balance-sheet of the holding company. That is a perfectly simple thing to arrange in the case of a holding company which is properly speaking a holding company : that is to say, a company, A. B. & Co. which owns and controls either in whole or in part a subsidiary which is managed probably by their own directors or a section of them. For a company in such a position it is an easy matter to say that any accounts of such a subsidiary company should be published along with the accounts of the holding company. But in the case of investment companies and also possibly finance companies, one of whose jobs possibly may be the underwriting of shares—not in every case, I admit—they buy shares for investment mostly—but they also on occasion underwrite a whole issue and they may be left holding 51 per cent. or more of that issue—they have no directors on the board of the company concerned, nor are they managing agents ; but in accordance with the definition of a subsidiary company in clause 2 (2) of this Bill it will be seen at once that an investment company or finance company in such a position will immediately and automatically be treated as a holding company and would therefore have to attach to its own balance sheet and accounts the balance sheet and accounts of the company of which they happen to hold 51 per cent. of the shares. I submit that that is not the intention of the Honourable the Law Member. What he is trying to get at—quite rightly—is a holding company which is properly speaking a holding company, and really controls a subsidiary. In that case of course we want the subsidiary to publish its accounts. But in the case of an investment company or a finance company, it may be quite impossible for them, even if they have the best of intentions in the world, to publish along with their balance sheet and accounts, the balance sheet and accounts of some company of which they hold more than 51 per cent. of the shares and therefore by clause 2 (2) become a holding company. Sir, I move. The proviso as now in the Bill should be taken out because as long as you had the words in the English Act, it was necessary but with the words as amended by the Select Committee it is now of no use.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 68 of the Bill, to sub-section (1) of the proposed section 132A, the following further proviso be added :

‘ Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent or more of the shares of another company ’.”

Mr. M. Ananthasayanam Ayyangar : Sir, I beg to oppose this amendment. At various stages I have found one principle running through all the amendments that have been given by the European Group by one member or other of that group.....

Mr. President (The Honourable Sir Abdur Rahim) : You need not go into that now.

Mr. M. Ananthasayanam Ayyangar : I am not going into it except in so far as it relates to this amendment. It is much more accentuated in this. They are trying to avoid giving information regarding the position as to whether it is working at a loss or profit. Almost all the information necessary to put the shareholders on guard is sought to be taken out by some amendment or other. So far as this amendment is concerned, investment companies holding more than 51 per cent. of the shares, and on which there is no director, there is all the greater reason why the balance sheet and profit and loss account of the other company should be attached to its own. That is the only way in which it is possible for this holding company to know how the other is working. There is no other link between the one and the other : a director in both the companies may come and say that such and such is the state of affairs and therefore greater safeguards are immediately indicated. Therefore it is that this proviso is absolutely out of place : it is trying to take away the very object of the new section 132A. It will put the shareholders at a disadvantage by not giving them sufficient information regarding the working of the other company. I, therefore, oppose it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 68 of the Bill, to sub-section (1) of the proposed section 132A, the following further proviso be added :

‘ Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent. or more of the shares of another company ’.”

The Assembly divided :

AYES—46.

Abdul Hamid, Khan Bahadur Sir.
Abdullah, Mr. H. M.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.
Ayyar, Diwan Bahadur R. V. Krishna.

Bajpai, Sir Girja Shankar.
Bhat, Mr. M. D.
Bhutto, Mr. Nabi Baksh Illahi Baksh.
Buss, Mr. L. C.
Chapman-Mortimer, Mr. T.
Dalal, Dr. R. D.

AYES—*contd.*

Das-Gupta, Mr. S. K.
 Dey, Mr. R. N.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Ghuznavi, Sir Abdul Halim.
 Gidney, Lieut.-Colonel Sir Henry.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Khurshaid Muhammad, Khan Bahadur Shaikh.
 Lal Chand, Captain Rao Bahadur Chaudhri.
 Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Mody, Sir H. P.
 Morgun, Mr. G.

Mukherjee, Rai Bahadur Sir Satya Charan.
 Naydu, Diwan Bahadur B. V. Sri Hari Rao.
 Rajah, Rao Bahadur M. C.
 Rau, Mr. P. R.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.
 Sen, Mr. Susil Chandra.
 Singh, Rai Bahadur Shyam Narayan.
 Sreer, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Yamin Khan, Sir Muhammad.
 Zafrullah Khan, The Honourable Sir Muhammad.

NOES—42.

Abdul Matin Chaudhury, Mr.
 Aney, Mr. M. S.
 Ayyangar, Mr. M. Ananthasayanam.
 Bajoria, Babu Baijnath.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chetty, Mr. Sami Vencatachelam.
 Das, Mr. B.
 Das, Mr. Basanta Kumar.
 Datta, Mr. Akhil Chandra.
 Essak Sait, Mr. H. A. Sathar H.
 Gadgil, Mr. N. V.
 Ghiasuddin, Mr. M.
 Giri, Mr. V. V.
 Govind Das, Seth.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jinnah, Mr. M. A.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.
 Khare, Dr. N. B.

Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Malaviya, Pandit Krishna Kant.
 Mudaliar, Mr. C. N. Muthuranga.
 Muhammad Ahmad Kazmi, Qazi.
 Murtuza Sahib Bahadur, Maulvi Syed.
 Paliwal, Pandit Sri Krishna Dutta.
 Pant, Pandit Govind Ballabh.
 Raghubir Narayan Singh, Choudhri.
 Ranga, Prof. N. G.
 Sakseena, Mr. Mohan Lal.
 Shaun Lal, Mr.
 Shaikat Ali, Maulana.
 Sheodass Daga, Seth.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Som, Mr. Surya Kumar.
 Sri Prakasa, Mr.
 Umar Aly Shah, Mr.
 Varma, Mr. B. B.
 Ziauddin Ahmad, Dr.

The motion was adopted.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhamadan Rural) : Sir, I move :

“ That in clause 68 of the Bill, after sub-section (6) of the proposed section 132A, the following be inserted :

‘ (7) The provisions of this section shall also apply to a company carrying on different classes of business, each class of business being treated as a ‘ subsidiary company ’ for the purposes of this section ’.”

Sir, provisions are sought to be made under this clause for the regulation of subsidiary companies. It does happen, however, that the same company carries on different classes of business, each very different from the other ; and I propose by the insertion of this sub-section to insist on a company regarding different classes of its business as subsidiary companies, so that these may come under the provisions of this clause. I understand, there was a very stormy meeting of the

[Mr. Sri Prakasa.]

shareholders of the British India Corporation at Cawnpore the other day. They carry on different classes of business and mix up the accounts of all the classes together, because of which it is impossible for the shareholders to find out exactly how each class of business stands. Hence the trouble. Therefore, in cases of companies where they do not divide up their business into subsidiary companies but carry on all classes of business under the same name, I think a provision like this will be salutary. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 68 of the Bill, after sub-section (6) of the proposed section 132A, the following be inserted :

‘ (?) The provisions of this section shall also apply to a company carrying on different classes of business, each class of business being treated as a ‘ subsidiary company ’ for the purposes of this section ’.”

The Honourable Sir Nripendra Sircar : I oppose this amendment. It is simply impossible to consider different classes of business as different subsidiary companies with all the consequences which attach to subsidiary companies.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 68 of the Bill, after sub-section (6) of the proposed section 132A, the following be inserted :

‘ (?) The provisions of this section shall also apply to a company carrying on different classes of business, each class of business being treated as a ‘ subsidiary company ’ for the purposes of this section ’.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 68, as amended, stand part of the Bill.”

The motion was adopted.

Clause 68, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 69 stand part of the Bill.”

Mr. Sri Prakasa : Sir, before you allow amendment No. 173 in the name of Mr. Sen to be moved, I should like to raise a point of order and I want your ruling on it. I do not think Mr. Sen can move this amendment at all. He gave notice of this amendment some time back and then he resigned his membership of this House. Another gentleman was nominated in his place. I know Mr. Sen has now been renominated. But when a Member gives notice of amendments, and then resigns, he should lose all his rights to move those amendments, even if he should come back. I have no objection to your suspending the Standing Orders and allowing him to move them ; but I want your ruling to the effect that he cannot move his amendments on the basis that he gave his notice when he was a Member of the House before. I also want to lodge a protest against the system which enables Government to keep its

voting strength intact by allowing Members to go and nominating others in their places, a privilege which we do not have on this side of the House. I hope, Sir, you will see the justice of my claim and rule in my favour.

The Honourable Sir Nripendra Sircar : This interesting question does not arise, because Mr. Sen as soon as he came back took the precaution of renewing notice.

Mr. Sri Prakasa : If that were the case, his amendments would have been printed in the supplementary lists and not on the main list.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Sen, amendment No. 173.

Mr. Susil Chandra Sen : Sir, I move :

“ That for clause 69 of the Bill, the following be substituted :

‘ 69. In section 133 of the said Act—

(a) after the word ‘ balance-sheet ’ wherever it occurs the words ‘ and profit and loss account or income and expenditure account ’ shall be inserted ;

(b) after the word ‘ manager ’ wherever it occurs the words ‘ or managing agent ’ shall be inserted ; and

(c) for sub-section (d) the following sub-section shall be substituted, namely :

‘ (d) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees ’.”

This amendment is a simple and formal one in this sense that in the Act we have now provided compulsorily not only for a balance sheet but also for a profit and loss account and in the case of companies which do not have a profit and loss account the income and expenditure account and all of these documents have got to be properly signed by the directors. The first portion of the amendment, namely, sub-clause (a) is directed to this, namely, not only the balance sheet but the other documents which have been made compulsory will be signed in the same way as a balance sheet. The second one is necessary now that as we are roping in the managing agents and we have to provide that they do not escape and the third clause is the provision as to penalty which has been consolidated in one place instead of scattering it in so many different places. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That for clause 69 of the Bill, the following be substituted :

‘ 69 In section 133 of the said Act—

(a) after the word ‘ balance-sheet ’ wherever it occurs the words ‘ and profit and loss account or income and expenditure account ’ shall be inserted ;

[Mr. President.]

(b) after the word 'manager' wherever it occurs the words 'or managing agent' shall be inserted; and

(c) for sub-section (3) the following sub-section shall be substituted, namely:

'(3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees.'

Mr. M. Ananthasayanam Ayyangar : With respect to this clause 69 you will please remember that the Honourable the Law Member said that there is ample provision in this clause to deal with cases where a meeting is not called for the purpose of placing the balance sheet, etc. My friend, Mr. Bajoria, had given an amendment to clause (d), that sub-section (4) shall be omitted, that is sub-section (4) of the original section 131, imposing a penalty in case a meeting was not called. He was asked to withdraw it and he did withdraw it. I expected and still expect that the Honourable the Law Member would move an amendment to this clause 69 to provide for cases where a default is made in calling a meeting. If he has no objection, I will move an amendment.

Mr. Susil Chandra Sen : It is not necessary to move any amendment. I believe my friend's point will be met if I draw his attention to the existing provisions of section 76 in the Act which provides for the penalty for not calling an annual general meeting.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That for clause 69 of the Bill, the following be substituted :

'69. In section 133 of the said Act—

(a) after the word 'balance-sheet' wherever it occurs the words 'and profit and loss account or income and expenditure account' shall be inserted;

(b) after the word 'manager' wherever it occurs the words 'or managing agent' shall be inserted; and

(c) for sub-section (3) the following sub-section shall be substituted, namely :

'(3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees.'

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That clause 69, as amended, stand part of the Bill."

The motion was adopted.

Clause 69, as amended, was added to the Bill.

Clause 70 was added to the Bill.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That after clause 70 of the Bill, the following new clause be inserted :

‘ 70A. In section 135 of the said Act, after the words ‘ the balance sheet ’ the words ‘ and the profit and loss account or the income and expenditure account ’ shall be added ’.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That after clause 70 of the Bill, the following new clause be inserted :

‘ 70A. In section 135 of the said Act, after the words ‘ the balance sheet ’ the words ‘ and the profit and loss account or the income and expenditure account ’ shall be added ’.”

The motion was adopted.

New clause 70A was added to the Bill.

Clauses 71 to 74 were added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 75 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 75 of the Bill, after sub-clause (a) the following be inserted :

‘ (aa) after clause (f) of sub-section 2A, the following shall be added, namely :

‘ (g) a local board of accountancy shall be established in each province consisting of a representative of the chambers of commerce, one representative of the shareholders of companies, one representative of the directors and managing agents, one representative of Chartered Accountants and the Registrar of joint stock companies of the province, in such manner as the Governor General in Council may by rules prescribe ;

(h) in provinces where there are local Accountancy Boards, the power of suspension or cancellation of certificates granted to auditors or of taking any other disciplinary action against auditors shall be exercised by the Local Government on the recommendation of the local Accountancy Board ;

(i) an appeal shall lie to the Governor General in Council from an order of a Local Government cancelling a certificate of an auditor.’.”

Sir, for the purpose of auditing the accounts of companies, and even when as a profession a person does not engage himself in the business of auditing the accounts of a company, all such persons—both those who have taken to audit as a profession and those who want to have audit certificates given to them by the Governor General in Council under rules framed under sections 144 to 145 can have that done and they are recognized as certified auditors and their names are entered in the register. Local Accountancy Boards, which can make recommendations to the Local Government and to the Governor General in Council in the matter of cancelling or suspending certificates issued to auditors, can be appointed under the same rules. Now, in many cases Local Accountancy Boards have not been appointed at all. My desire is that they should be appointed for each province. I also want that local Accountancy Boards should be appointed with the particular composition set out in clause (g), that is,

[Mr. M. Ananthasayanam Ayyangar.]

they should consist of those persons who are interested in companies and in the proper checking and auditing of the accounts of companies. Also, among the five persons, who are to constitute the Local Accountancy Board, some must be accountants, or auditors with expert knowledge. I have only given the details of the persons who should form themselves into the Local Accountancy Board or those persons who have formed themselves into such a Board. The general qualifications are already set out in section 144. I have only tried to make some general recommendations, *vide* my clause (g), as regards the class of persons specifically from each interest that is to be represented on the Board ; and, when such Boards are established in the several provinces, the work of cancelling or suspending certificates or taking disciplinary action with respect to auditors, must be done on the recommendations of those Boards. Sir, it is a long way off from Cape Comorin to Simla ; so that very often, if an auditor misbehaves, the cry is not heard ; he probably comes and whispers something into the ears of some clerk in the Secretariat, and very often he might get misled. Ultimately he may go scot-free. In any case there is not that public opinion that he has to respect and which, otherwise, would certainly prevail over him in the province where he misbehaves. I have, therefore, said that on the advice of the Local Accountancy Boards disciplinary action should be allowed to be taken by Local Governments instead of by the Government of India as is done at present. In case the auditor is aggrieved by any particular order passed by the Local Government, he may appeal, also under clause (i), to the Governor General in Council. Sir, this is the object with which I have framed this amendment. I would now refer the House to the provisions of section 144 as they stand at present. I am trying to introduce an innovation by this amendment to see that the provisions already made in the section are compulsorily given effect to. Sir, hitherto Local Accountancy Boards have not been established in the various provinces, though there is that provision. Under section 144 :

“(1) “ “ “ “ no person shall be appointed or act as auditor of any company other than a private company unless he holds a certificate from the Governor General in Council entitling him to act as an auditor of companies :

* * * * *

(2) The Governor General in Council may, by notification in the Gazette of India, and, after previous publication, make rules providing for the grant, renewal or cancellation of such certificates and prescribing conditions and restrictions for such grant, renewal or cancellation.

* * * * *

(2A) In particular, and without prejudice to the generality of the foregoing power, such rules may—

* * * * *

(c) provide for the establishment, constitution and procedure of an Indian Accountancy Board, consisting of persons representing the interests principally affected or having special knowledge of accountancy in India, to advise him on all matters of administration relating to accountancy, and to assist him in maintaining the standards of qualification and conduct of persons enrolled on the Register ;

(f) provide for the establishment, constitution and procedure of local accountancy boards at such centres as the Governor General in Council may select, to advise him and the Indian Accountancy Board on any matter that may be referred to them.”

These rules may be framed to provide for the establishment of local accountancy boards. As far as my information goes, till now a local accountancy board has not been established in Madras, though one such has been established in Bombay. By this amendment I want to make it obligatory. I have also suggested the class of persons who should be represented on the Board, etc. Therefore, Sir, by this amendment I seek to have compulsory these Accountancy Boards being brought into existence in several provinces ; I have suggested the composition of these boards, and I have also provided for the Local Government dealing with cancellations or suspensions of certificates in emergent cases, for the Governor General in Council is too far away to deal effectively with such matters. I therefore move this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 75 of the Bill, after sub-clause (a) the following be inserted :

‘ (aa) after clause (f) of sub-section 2A, the following shall be added, namely :

‘ (g) a local board of accountancy shall be established in each province consisting of a representative of the chambers of commerce, one representative of the shareholders of companies, one representative of the directors and managing agents, one representative of Chartered Accountants and the Registrar of joint stock companies of the province, in such manner as the Governor General in Council may by rules prescribe ;

(h) in provinces where there are local Accountancy Boards, the power of suspension or cancellation of certificates granted to auditors or of taking any other disciplinary action against auditors shall be exercised by the Local Government on the recommendation of the local Accountancy Board ;

(i) an appeal shall lie to the Governor General in Council from an order of a Local Government cancelling a certificate of an auditor’.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. Apart from other grounds, Government of India is not prepared at the present moment to have it made mandatory that a Local Board of Accountancy shall be established in every province and further, supposing that is going to be done, we cannot accept the composition which has been indicated in clause (g) of the amendment, that is, a representative of the chambers of commerce, one of the shareholders, one of the directors and managing agents, and so on. I object to this amendment.

Mr. M. Ananthasayanam Ayyangar : Have you got an alternative suggestion with regard to the composition of these accountancy boards ?

The Honourable Sir Nripendra Sircar : One thing at a time. I am opposing this.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 75 of the Bill, after sub-clause (a) the following be inserted :

‘ (aa) after clause (f) of sub-section 2A, the following shall be added, namely :

‘ (g) a local board of accountancy shall be established in each province consisting of a representative of the chambers of commerce, one representative of the shareholders of companies, one representative of the directors and managing agents, one representative of Chartered Accountants and the Registrar of joint stock companies of the province, in such manner as the Governor General in Council may by rules prescribe ;

[Mr. President.]

(h) in provinces where there are local Accountancy Boards, the power of suspension or cancellation of certificates granted to auditors or of taking any other disciplinary action against auditors shall be exercised by the Local Government on the recommendation of the local Accountancy Board ;

(i) an appeal shall lie to the Governor General in Council from an order of a Local Government cancelling a certificate of an auditor'."

The motion was negatived.

Mr. Susil Chandra Sen : Sir, I move :

" That sub-clause (b) of clause 75 of the Bill be omitted, and the subsequent sub-clause (c) be re-lettered as sub-clause (b)."

Before going further, I will draw the attention of the House to the proviso which I want to be deleted. In clause 75, you will find that clause (b) of the Bill purports to amend section 144 by adding to subsection (2B) the following words, namely :

" and when so acting to append to his signature the style ' Chartered Accountant (India) '."

Sir, with your leave I propose to go into some details in order to show exactly the matter which I want to be dealt with by my amendment. As most of the Honourable Members are aware, in India we have a class of accountants who call themselves " Chartered Accountants ". They are entitled to call themselves " Chartered Accountants " by reason of the fact that they are members of one or other of five societies of accountants in the United Kingdom, namely, the Society of Accountants, Edinburgh ; the Institute of Accountants, Glasgow ; the Society of Accountants, Aberdeen ; the Institute of Chartered Accountants in England and Wales ; and the Institute of Chartered Accountants in Ireland. All these bodies have got royal charters which entitled the associates or fellows of these bodies to call themselves " Chartered Accountants ". They are admittedly regarded as belonging to a higher category of accountants. Now, at the present times in India we have 274 such accountants who are entitled by reason of their association with one or the other of these bodies to call themselves chartered accountants and a very considerable number of Indians amongst them. What is now intended to be done by this Bill is to allow accountants in India who are not members of these bodies and who are not entitled to call themselves Chartered Accountants to arrogate to themselves the designation of Chartered Accountants (India). Sir, it may be naturally asked why is there this fancy for the particular words ' Chartered Accountants ' ? Sir, this demand is made by a certain class of accountants who have become entitled to audit the accounts of companies in this country by obtaining a certificate from the Governor General in Council. They call themselves at present as " Registered Accountants ". They argue—that if they can be designated as Registered Accountants then, why should they not call themselves " Chartered Accountants " ? But that is no answer to the question. First of all, in the Act you will find, Sir, that there is no provision for calling them by any name. They are only given a certificate and their names are enrolled in a Register. They dub themselves as " Registered Accountants " and that is the genesis of these " Registered Accountants ". This system has been found to be satisfactory for the last 23 years. But apparently it is now considered to be satis-

factory. They now want to usurp, (if I may be pardoned for using that word), the designation of "Chartered Accountants" which, by right, belongs to the members associated with the five bodies I have named. Sir, the reason is obvious. They want to abolish the distinction between them and those persons who are rightly entitled to the designation. It has been said that they want to differentiate themselves by saying that they are to be called Chartered Accountants (India). But then again there is no answer to the question as to why they have chosen the word "Chartered Accountant" as part of their designation. Let us now see if under section 144, there is scope for giving them any designation at all. What does section 144 lay down? Section 144 only says that the Governor General in Council, by Notification in the Gazette of India, may make rules for the purpose of granting, renewing or cancelling certificates which will enable any accountant, whether he is a member of these bodies, whether he is a member of any other public body or whether he is an ordinary clerk to audit the accounts of a company in India. If he can pass the examination, he is given the certificate which entitles him to audit the accounts of companies. Under the section itself he is not given any designation, but as there is a register, those who become so eligible allocate to themselves the designation of "Registered Accountants". Therefore, Sir, in my submission there is no right to demand that any specific designation and much less the designation of "Chartered Accountants", should be given to them. Then, Sir, from the objections received what has been rightly pointed out by the members of these bodies is that it really means that these accountants who are not Associates or Fellows of the bodies I have mentioned want to pass off themselves as such. They want it to be believed really that they have something to do with these bodies. Sir, there is absolutely no justification for allowing them to do so. This provision was not in the original Bill as drafted.

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : What about those recommendations which you yourself made ?

Mr. Susil Chandra Sen : I made no recommendations for such a jugglery. In the Select Committee stage this was put in, but I submit, that it is an unwarrantable provision attempted to be introduced in the Act. It really is a surreptitious attempt to trench upon the position of those persons who, by reason of their association with certain authorised institutions, are entitled to call themselves "Chartered Accountants". It has been said that there are accountants with designations "Chartered Accountants" in South Africa, Quebec and Canada. I have no doubts there are, but I say, Sir, with confidence that neither by the Canadian Companies Act nor by the South African Companies Act were they given the designation of "Chartered Accountants". They got it either by a charter, as in Australia or they have had special enactments passed. These enactments provide for an autonomous institution which fixes the rules and regulations which have got to be complied, the examinations which have to be passed, before they can be entitled to the use of the words "Chartered Accountants". Here we have no all India body and not even a united demand. Sir, I submit that there is neither any logic nor any justification for bestowing a designation which is calculated to deceive people—and no case has been made for having any such change brought about through the medium of this Act which has nothing to do

[Mr. Susil Chandra Sen.]

with the designation of accountants. Sir, I move that this clause should be deleted.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That sub-clause (b) of clause 75 of the Bill be omitted, and the subsequent sub-clause (c) be re-lettered as sub-clause (b). ”

Pandit Sri Krishna Dutta Paliwal : Sir, I rise to oppose the amendment moved by my Honourable friend, Mr. Susil Chandra Sen, and my reasons are these. He has taken his stand on two grounds. In the first place, he has said that the words “ Chartered Accountants ” are used exclusively by certain accountants in the United Kingdom who belong to certain societies. Secondly, he has said that this designation is used in other countries by means of a special enactment. I say that both these statements are self-contradictory. In the first place, the Indian Society of Accountants and Auditors say that the belief that the designation of “ Chartered Accountants ” is the exclusive and monopolised privilege of the chartered accountants who are qualified only in England is erroneous. In fact, such is not the case. Almost all the Dominions in the British Empire (except India) have themselves provided, independently of the English qualification, for the awarding to their nationals the designation of “ Chartered Accountant ” by legislative enactments. Sir, it is written here in the memorandum sent by the Indian Society of Accountants and Auditors that the designation “ Chartered Accountants ” is allowed in the following countries :

Canada, Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan, South Africa, Transvaal, Natal, Cape of Good Hope, Orange Free State, South Rhodesia.

So the suggestion of my Honourable friend that this designation is confined only to these five or six societies in U. K. is wrong. I submit this is done in all other parts of the British Empire also. Now, Sir, I admit that this is done not by the Company's law but by special laws enacted for the purpose. But then in India there is no special law for the purpose. The only law which deals with the Accountants in India is the Companies Law and the Companies (Amendment) Act was passed in 1930 for the special purpose of enabling the Government to regulate the Accountants and Auditors and section 144 (2A) clause (e) of that Act prescribes definitely that the Governor General in Council shall be advised from time to time by the Indian Accountancy Board ‘ on all matters of administration relating to accountancy ’. Under the said Amending Act, 1930, voluminous rules have been framed by Government for covering the entire field of activities in the Indian Accountancy profession. This was the case in 1930. According to this section, it was officially announced by the Government of India that the object of the said Amendment Act was to concentrate powers in the hands of the Governor General in Council for the purposes of regulating the Indian Accountancy profession and not for merely issuing auditor's certificates with the help and advice of the Indian Accountancy Board and Local Accountancy Boards. The functions of these Boards which were outlined by the Government of India in their Notifications No. 131-T.-(2), dated the 16th November, 1925, and No. 131-T.-(2), dated the 20th August, 1928,

show that these Boards were designed to tackle all matters relating to the profession of accountants and auditors in India. These functions are :

“(1) subject to the approval of the Government of India to frame and issue rules prescribing the qualifications and the grant of diplomas in accountancy.

“(6) to grant an all-India diploma in accountancy which would connote high professional attainments and would entitle the holders thereof to practise their profession anywhere in British India.

“(8) to recommend to the Government of India the cancellation of the all-India diploma where the holder has been found guilty of professional misconduct.

(IV)-(3). The functions of a Local Board should be to advise the Indian Accountancy Board or the Governor General in Council on any matters relating to the profession of Accountants within its area.

The functions of the aforesaid statutory Boards of control clearly point out that section 144 of the Act under which they are constituted is enacted for the broad purpose of regulating the profession of accountants and auditors in India.”

Sir, the argument that in other countries they do have got special enactments for the purpose does not hold water because there is no such law in India. The Government here do not even contemplate the bringing forward of any such law. Supposing the Government take the stand that they will hereafter come forward with a specific legislation, then in that case this amendment of the Companies Law can be repealed by the repealing section of that Bill as is generally the case in such enactments. So, Sir, there is no difficulty whatsoever in allowing the Indian Accountants the right to use the designation, Chartered Accountants. It may be said or it may be hinted that the professional qualifications of the Indian Accountants are not so good as those of the Chartered Accountants of other countries—I say that it is not so. The Indian Society of Accountants and Auditors says : “Regarding the tests in general education, and practical training and the range of knowledge in professional subjects required by Government before granting the auditor’s diploma of ‘Registered Accountant’, they are undoubtedly rigorous and connote a high standard and a wide range of professional attainments as admitted by the Government themselves and they compare quite favourably with those required in England and in other British Dominions. Even if the Government think that these qualifications are not sufficient, it is in their power to make them more rigorous, they can enhance the qualifications necessary and make the examination more stiff and then grant this designation”. So, Sir, I do not think the Government should have any objection in granting that designation to Indian Accountants. I do not understand why Indian Accountants should be put to any disadvantage for the benefit of the British or England-returned Accountants. To me it appears that the whole thing is a question of vested interests. Nothing more. The question is if the Indian Accountants do not possess the qualifications which the other Accountants possess, you may say that they have not got the qualifications. But in point of fact it is not so. Therefore, you have no valid reason to prevent them from using the designation “Chartered Accountant”. Take an instance, you have the B. A. degree in the Allahabad University, in Calcutta University and in all the Indian Universities as well as in the British Universities and on this score, you cannot say that those who pass out in India should not designate themselves as B. A.’s. The test is prescribed, an examination is prescribed,

[Pandit Sri Krishna Dutta Paliwal.]

where then is the harm in allowing the designation of Chartered Accountant to Indian Accountants. Why should they be prevented from designating themselves as Chartered Accountants simply for the advantage of those who have wasted the hard earned money of India in other countries? How is it justifiable that for that very reason and no other these England-returned Accountants should demand special privileges for themselves? I have seen the syllabuses which are prescribed for the Accountancy Examinations in different parts of the British Empire, and I am satisfied that the Indian examination is as stiff, I may even say, it is superior in certain respects to the examination which the Accountants in other countries, especially these so-called Chartered Accountants have to undergo. That being so, if the Chartered Accountants of the United Kingdom or of the other parts of the Dominions want to distinguish themselves from the Indian Chartered Accountant, the wording in the Bill does not prevent them from doing so, because the designation for Indian Accountants is "Chartered Accountants (India)". So the Indian Chartered Accountants are distinguishable from the Chartered Accountants of other countries and there is no fear of any confusion or any mistake on that score. Sir, there was a talk of some fraud in this connection.

Now, Sir, "fraud" is a very dangerous reptile. I searched for it very carefully and on examination I found that it was on the other side. Why should certain Accountants who pass their examination in England or in other countries outside India demand special privileges, for no other reason, but this that they have passed their examination in countries outside India? Sir, in India, the result of the present designation which the Indian Accountants have got is very injurious to them. The result is that in the International Congress of Accountants, the designation of Registered Accountants given to the Indian Accountants is practically looked down upon and they are considered inferior for no fault of their own as compared with the auditors of the rest of the British Empire who are designated as Chartered Accountants. Exchange banks and other banks doing business in India frequently insist before making advances to business house to have the latter's accounts audited by auditors having the designation of "Chartered Accountants" even though such accounts have already been audited by reputable firms of registered accountants in India, and so there is the consequent humiliation of Indian auditors and also loss of their reputation and practice. Besides this, another inconvenience which the Indian accountants have to suffer on account of this invidious distinction is that investors and the general public wrongly believe that if an auditor does not hold the designation of "Chartered Accountant", he is no good and he is looked upon as an inferior class of auditor. Even Courts of law in India while passing orders in matters concerning accounts and audit at times inadvertently make similar mistakes.

In foreign countries, accounts of business houses in India audited by auditors bearing the designation of "Registered Accountants" are not as readily accepted as those bearing the universally recognised designation of "Chartered Accountants".

Sir, for these reasons, I think the amendment before the House should be thrown out and another amendment which we are going to move should be accepted.

The Honourable Sir Nripendra Sircar : Sir, before I come to the merits of the question I propose to say that this amendment, if it is lost, will be against the interests of those,—and I include myself among those,—who are desirous of having a body of accountants here in India who will have the same or almost equal status as the Chartered Accountants. A question in connection with Government attitude to accountants was put to me at or about the time when the Select Committee was being held. I could not then answer the question because I had no instructions then. I am now authorised to say that Government propose in the very near future to consider the whole question, the whole matter of the status of accountants and to consider the question of what can be done to raise the status of Indian accountants, whether by legislation or by other means. Sir, the grievances of the Indian accountants are that they who pass their examinations in India cannot acquire the status of Chartered Accountants; and, as I shall proceed to show, by pinching their name they will never acquire such status, and any efforts on the part of the Government of India to take up this matter,—which, as I have said, I am authorised to say, will be taken up in the very near future,—will be a cause of retardation and not progress, so far as the Indian Accountants are concerned. Sir, I shall come back to it later, but I propose to say what is behind this. Why do they want this name Chartered Accountants, and “India” within brackets of course, and not any other name? Sir, I am sure if you give them any other name, even higher names and better names, they will not accept it. Would they like to be called ‘Expert Accountants’, ‘Proficient Accountants’, ‘Superb Accountants’, ‘Super Accountants’ or the “Most Exalted Order of Accountants”? (Laughter.) No, Sir, they will not accept anything; they must have ‘Chartered Accountants’. Why? Because that will enable them to pass off, to commit a fraud, on at least a part of the public by posing as Chartered Accountants.

Mr. N. M. Joshi (Nominated Non-Official) : Why not let all be called by the same name?

The Honourable Sir Nripendra Sircar : As this is not a labour question I do not consider Mr. Joshi to be an expert. (Laughter.) Sir, of these gentlemen who were canvassing and still going from door to door,—(and I say they were quite right; why should not they canvass their own cause?),—one of them came to see me, and they saw me more than once. I asked, “Why do you want the name ‘Chartered Accountant’?” One of them said,—I hope he is here somewhere,—that it was because people come and inquire, “Are you Chartered Accountants?” That is letting the cat out of the bag; that is to say, they can carry the provision, made in the Select Committee, allowing these accountants to call themselves Chartered Accountants, the next time he is asked “Are you Chartered Accountant, the answer will be, “Yes, (Ind)”. That “Ind” will be uttered very slowly, I believe. Those who are very conscientious will utter the word “Ind” in a very soft voice. (Laughter.) That is the whole object. I think every one in this House is familiar with ‘passing-off’ actions in the case of goods. For instance, we had a case in Calcutta where “Pear’s Soap” was imitated. It was called “Peary’s Soap”. Only an “Y” was put in, and in one corner in small letters was the word “Ballygunge”. The Court held that never mind that word “Ballygunge” (just as “Ind” here within brackets), the object was to pass off as “Pear’s Soap”, which it was not. That is the sort of object, and just realise what is happening. My friend talked of Manitoba, Tasmania,

[Sir Nripendra Sircar.]

Timbuctoo, Honolulu, New Zealand, and so on. (Laughter.) But, Sir, in all these widely separated geographical regions, what has happened is this. The particular Government has brought a statute for constituting autonomous authority for accountants.

Pandit Sri Krishna Dutta Paliwal : Why does not your Government do it in India ?

The Honourable Sir Nripendra Sircar : Wait, Sir. They have their statutes, they create an autonomous body, which examines them. Government has no control either over the examination or over the giving of degrees or diplomas or anything of the kind. But here what is happening is, and under company law.....

Pandit Govind Ballabh Pant : Are they called Chartered Accountants or not in those countries ?

The Honourable Sir Nripendra Sircar : Yes, charter may be a royal charter or a charter under statute.

Pandit Govind Ballabh Pant : But in any case it is not a fraud there to call themselves Chartered Accountants.

The Honourable Sir Nripendra Sircar : No, for this reason, that in this country when a man says that he is a Chartered Accountant it carries some significance. People understand what he is. It may be that in South Africa there may have been Chartered Accountants, "S.A." within brackets, for 20 or 30 years. The significance here may or may not exist there. But, as my Honourable friends know, this passing off or this fraud depends on how the designation is taken, whether in the case of goods in the market, or in the case of professions, by the people and clients. If I say I am a Chartered Accountant, what will it convey ? Will it not convey to the man who is coming for my assistance that I belong to a certain society of accountants or have passed certain examinations ? Then my Honourable friend said, "Oh, the accountants here,—their examination is in no way inferior to that of the Chartered Accountants !" It must be so, because my Honourable friend was reading from what I believe has been handed over to him by the Registered and aspiring Chartered Accountants themselves. But there cannot be the slightest doubt, anybody who has inquired into the matter will know, that there cannot be any comparison between these two examinations. And they talk of traditions ! People who have come into existence only for 10 or 12 years talk of traditions ! That is the high-sounding talk in which these Registered Accountants indulge.

Now, Sir, even in England there is, first of all, the Chartered Accountants. Then we have got those who belong to the Incorporated Society of Accountants. The two are not the same. One means a five years' course and the other is probably three years course. If this law is passed, of course the Incorporated Accountant here who has got a certificate will pass himself off as a Chartered Accountant. He will get a lift without having passed the higher examination.

Sir, as it is now 6 o'clock, I may be allowed to continue tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 6th October, 1936.

LEGISLATIVE ASSEMBLY.

Tuesday, 6th October, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

MEMBERS SWORN.

Mr. Gurunath Venkatesh Bewoor, C.I.E., M.L.A. (Government of India : Nominated Official) ; and

Mr. John Bartley, C.I.E., M.L.A. (Government of India : Nominated Official).

SHORT NOTICE QUESTIONS AND ANSWERS.

APPREHENSION OF ABNORMALLY INCREASED IMPORTS OF SUGAR FROM JAVA
DUE TO HOLLAND'S DEPARTURE FROM THE GOLD STANDARD.

Mr. J. Ramsay Scott : Have Government any reason to apprehend abnormally increased imports of sugar from Java as a result of Holland going off the gold standard ?

The Honourable Sir James Grigg : No. The Government of India have received information from an official source that the Guilder export prices of sugar from the Netherlands Indies will be increased by an amount proportionate to the depreciation of the Guilder. The rupee price of imports from Java will therefore be unaffected by the departure of Holland from the gold standard.

Mr. J. Ramsay Scott : Are the Government aware that the Guilder has been depreciated by about 25 per cent. ?

The Honourable Sir James Grigg : My information is not perhaps so recent as that of the Honourable Member. In fact, I do not believe the Dutch Government have come to any conclusion except that they will have a managed currency, and I believe that the amount of the depreciation has not been finally settled.

CONGESTION ON TRUNK TELEPHONE LINES BETWEEN CERTAIN CITIES IN
INDIA.

Babu Baijnath Bajoria : (a) Are Government aware of the great inconvenience caused by the considerable congestion on Trunk Telephone lines, specially between Calcutta and Delhi, Calcutta and Bombay, and Bombay and Delhi ?

(b) Are Government aware that often subscribers have to wait for two hours or more to get a connection on the above routes ?

(c) Are Government aware that the commercial community has been pressing for the extension of telephone lines on these routes ?

(d) What steps are Government taking to relieve this congestion ?

The Honourable Sir Frank Noyce : (a), (b) and (c). Except between Bombay and Delhi there is ordinarily no undue congestion on the routes specially mentioned. At times of exceptional activity in the markets and during the half rate period congestion may occur but this is inevitable unless large sums are to be spent on providing additional circuits which would remain idle during long periods of the day or night.

No repeated complaints have been received from the commercial community against the adequacy of the service. Subscribers sometimes complain but usually realise that delays at times of great commercial activity and during the cheap period must be expected.

(d) The question of delays to trunk traffic is constantly under examination. As soon as it becomes evident that circuit accommodation will shortly prove inadequate, steps are taken to provide additional facilities. This usually involves the provision of additional carrier channels. Such apparatus requires a long period to manufacture and at present steps are being taken to provide equipment for the traffic which is anticipated in 1938. A project for increasing the outlets between Bombay and Delhi was sanctioned last cold weather. The contract time for this to be completed is May, 1937.

NEGOTIATIONS BETWEEN THE GOVERNMENT OF INDIA AND THE KATHIAWAR STATES TO REGULATE THE IMPORT OF FOREIGN GOODS.

Sir H. P. Mody : (a) Will Government be pleased to state what progress has been made with regard to the negotiations between the Government of India and the Kathiawar States ?

Has a settlement been reached with any of them ; and if so, on what terms ?

The Honourable Sir James Grigg : The Government of India have for some time been in negotiation with certain maritime States of Kathiawar with a view to arriving at a settlement to regulate the import of foreign goods at the States' ports, including particularly goods destined for markets beyond Kathiawar. The main object has been, with due regard for the rights and interests of the States, to prevent the development of uneconomic practices which lead to the diversion of trade from its natural channels. Agreements have now been concluded with the States of Junagadh, Nawanager, Porbandar and Morvi, whereby arrangements have been made with a view to ensuring that all goods imported at the States' ports are effectively subjected to customs duty at full British Indian tariff rates. These arrangements are calculated to produce healthier trading conditions within Kathiawar as well as beyond it, and are, therefore, conducive to the advantage of the States themselves as well as of British India. As regards the revenue derived from the duties levied on goods consigned to destinations outside Kathiawar, a settlement had already been made with Nawanager, after the Dunedin Award, whereby the State retains such revenue not exceeding five lakhs in any year, and any

excess over this amount is paid to the Government of India. A similar settlement has now been embodied in the agreements with the States of Junagadh, Porbandar and Morvi.

2. An agreement has also been concluded with another maritime State, namely Baroda, whereby the State will retain the revenue from customs duties levied on foreign goods imported at its ports, subject to a maximum equal to the estimated revenue derived from the consumption of such goods in the territories of the State.

Foreign goods which have been imported at British Indian ports and there subjected to customs duty will be admitted free of duty to the territories of the State, and goods which have paid duty at the State's ports will be admitted free of duty into British India. British Indian ports and the State's ports will thus be free to serve their economic hinterland without any obstruction arising from the necessity of securing that the customs revenue from particular imported goods accrues to the State or to the British Indian treasury, according to the location of the markets to which the goods are consigned.

3. In this connection it may also interest the House to learn that the Government of India have concluded a convention with the Government of French India regarding the consignment from Pondicherry and Karikal through the letter-post of dutiable goods addressed to the open Settlements of Chandernagore, Yanam and Mahe. For some time, highly dutiable articles, including in particular Japanese silk piece-goods had been so consigned and had found their way to British Indian markets without being subjected to duty, thus causing a serious loss of revenue as well as considerable disturbance to the legitimate trade in those commodities. The arrangements now concluded provide for the subjection to British-Indian customs duty of such consignments before they are accepted for despatch from Pondicherry and Karikal. The Government of India have every reason to believe that these arrangements have been successful in putting a stop to the practice which I have described.

Sir H. P. Mody : The reply is silent about Bhavnagar. Do I understand that no settlement has been reached with that State? Press reports seem to indicate that some action has been taken.

The Honourable Sir James Grigg : The Honourable Member is right in assuming that there has been no settlement with Bhavnagar State. The present position with regard to Bhavnagar is this. The Government of India have asked the Durbar to furnish with consignments of goods for British India an invoice showing the valuation of the goods and the amount of the customs duty paid. The Durbar has refused for the time being to furnish those invoices, and at the moment, therefore, no goods are being cleared across the Viramgam line from Bhavnagar.

Sir H. P. Mody : The figures of revenue derived in respect of goods which cross the Viramgam line have remained stationary for the last three years at about 27 lakhs. That would indicate that in spite of the tightening of the control no fresh additional revenue has accrued to the Government. Why is that?

The Honourable Sir James Grigg : The Honourable Member is quoting figures which are new to me.

Sir H. P. Mody : From the blue book.

The Honourable Sir James Grigg : I should have to have notice before I could answer that question. I think the implication in his mind must be that smuggling is taking place.....

Sir H. P. Mody : Yes, still taking place.

The Honourable Sir James Grigg : I am not aware that there is any very serious degree of smuggling but the Honourable Member knows that Bhavnagar is in a different position to all the other States in that it claims that no check can be placed on their goods in transmission to British India. The Government of India do not quite take that view.

Sir H. P. Mody : Can the Honourable Member say why it is that the imports of cotton piece-goods have gone up very considerably in the Kathiawar ports ?

The Honourable Sir James Grigg : That is almost entirely Bhavnagar, I understand.

Sir H. P. Mody : Just one other question : with regard to Baroda, I understood the Honourable Member to suggest a settlement on a different basis from the settlement reached with the four other Kathiawar States. Do I understand that in effect it means the same thing as if the Government of India were taxing in respect of goods which cross the border ?

The Honourable Sir James Grigg : The Government of India will in effect get the revenue from all goods imported at Baroda ports which are not consumed in the territories in Baroda itself.

Mr. B. Das : Is the Honourable Member satisfied that those Kathiawar States which were giving rebates in customs duty would no more give these rebates since the tightening of control ?

The Honourable Sir James Grigg : That is one effect of the agreement. I may say that one of the terms of the agreement is that the onus of proof that rebates are not being given will in future rest upon the States.

Mr. B. Das : Will Government place customs officers to see that these States do not give any rebates ? Are they keeping any officers in these ports ?

The Honourable Sir James Grigg : That raises a very large question which I would rather not enter into here.

Mr. N. M. Joshi : May I ask who is the final authority to decide what amount is to be paid to Baroda ?

The Honourable Sir James Grigg : That amount is regulated by the agreement ; and I have described the effect of the agreement.

Mr. N. M. Joshi : May I ask whether it is the Government of India who will decide or the Baroda State that will decide or in case of conflict will there be arbitration ?

The Honourable Sir James Grigg : I do not see how there can be a conflict on a matter which is regulated by pure arithmetical calculation.

Sir Cowasji Jehangir : Is it a fact that the traders of Bhavnagar have struck work since the Honourable Member's orders just explained by him ?

The Honourable Sir James Grigg : I am not sure they have got any alternative. The Bhavnagar State authorities refused to give the invoices which the Government of India requested should be given ; and in the absence of those invoices the goods will be charged at full British Indian rates at the line. Obviously the merchants are not going to pay duty twice. Hence the deadlock.

Dr. Ziauddin Ahmad : Have the Government considered the desirability of putting one of their own officers in these ports belonging to the Indian States ?

The Honourable Sir James Grigg : That is precisely the question which was asked by the Honourable Member over there and I said I would prefer not to answer it at the present moment.

Sir Cowasji Jehangir : Is it the intention of the Government of India to take a firm line in the case of Bhavnagar ?

The Honourable Sir James Grigg : The Honourable Member had better wait and see.

Sir Cowasji Jehangir : Is it the intention of the Government of India that the firm line will continue ?

The Honourable Sir James Grigg : The Honourable Member had better wait and see that too.

EXPUNCTION OF CERTAIN PASSAGES IN A QUESTION PUT BY MR. KABEER-UD-DIN AHMED.

Mr. President (The Honourable Sir Abdur Rahim) : The other day I was asked to consider whether certain passages in a question put by Mr. K. Ahmed should not be expunged as it contained very serious reflections on the Congress Members of this House. The passage is this :

“ Will Government be pleased to take steps and warn pensioners not to stand for any election, and if they do like to stand, they incur not only the displeasure of the public, but their pensions may be forfeited for the fact that most of the Congress Members take the money for their election expenses from the Bombay millowners and Ahmedabad millowners, and they do not include the expenses in the return of election expenses filed under section 19 of the rules for election to the Legislative Assembly under which many of the Members in the last election have come ? ”

At that time I could not quite follow the question, and, therefore, I said that when it is recorded I would look into it and give my ruling. It seems to me perfectly clear that the question involves a very serious reflection on one section of the House, and I, therefore, order that it should be expunged.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee. I think the House was discussing amendment† No. 181 by Mr. Susil Chandra Sen. Sir Nripendra Sircar.

†“ That sub-clause (b) of clause 75 of the Bill be omitted, and the subsequent sub-clause (c) be relettered as sub-clause (b).”

The Honourable Sir Nripendra Sircar (Law Member) : Sir, in the few minutes which were available to me yesterday, I made the point that if the provision approved by the Select Committee stands, it will really amount to passing off of a colourable imitation of chartered accountants as real ones. There was an interjection by my Honourable friend, Mr. Sri Krishna Paliwal : he asked "What has your Government done in India?" That is to say, the point of his question was, what has been done by the Government of India in connection with accountants? Sir, I shall very briefly, possibly in a couple of minutes, inform the House as to the position of Indian accountants in India. The first move for training accountants was made in the year 1925. The inquiries which were made by the Government of India in 1925 elicited the general opinion that the time was not ripe for having an institute or an association. The matter was dropped then in the end of 1925. It was taken up again in 1928, and in 1928 steps were taken to form what was known as the Accountancy Board. In 1930 the Accountancy Board was informally set up. The draft rules were published in the gazette. After the draft rules had been published this informal Accountancy Board met. The composition of the Board was that it consisted of members taken from firms of accountants and I may tell the House that two-thirds of the Board were Indians and one-third were Europeans. They were mostly if not all accountants, either partners or assistants in well-known firms of accountants. This Board met, as I said, in 1930 : they criticised and carefully considered the rules which had been published in the gazette, and it was there that they turned down the name or the designation which had been suggested by the Government of India, namely, certificated public accountants. And this Board, as I said, consisting of two-thirds of Indians, unanimously agreed that the proper term to be employed would be "Registered Accountant". I may also inform the House that the agitation which is now going on at the instance of the Indian Society of Accountants and Auditors, Bombay,—now the gentleman who was in the Council of this Society was one of the members present who along with others unanimously agreed or rather approved of the term "Registered Accountant" rather than accept what was suggested by Government.

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : Did they disapprove of the term "Chartered Accountant"?

The Honourable Sir Nripendra Sircar : They never claimed, they never thought of claiming to be chartered accountants ; they are not chartered accountants. After this, in their memorandum they say that this term has been coined for them by the Government of India. The facts will speak for themselves and I suggest that there is nothing to justify that observation made in the memorandum which has been sent by this Society. In 1932 the Auditors' Certificate Rules were published. This is really the first time that some amount of control over accountants had been started. That was in 1932, and that date is really important when we remember that these accountants now claim long traditions behind them, the period being three years and a half. I should also inform the House that in some other places, for instance, in the United States of America where accountancy has made greater advance than in any other country, they are called "Certified Public Accountants", and that is the name which we suggested but which was not approved by the Board. In New Zealand they are called Public Accountants. Sir, the present position is this. I am making no comments, I am only stating what the

present position is. The present position is that this Accountancy Board is appointed by Government, that a register is maintained by Government, that the examination is conducted by Government and certificates are issued by the Government and the rules empower Government to cancel those certificates. Honourable Members will realise the difference between the South African State and our company law section 144. In South Africa, as well as in some other places, Acts were brought for the purpose of constituting an autonomous body of chartered accountants. Government has no control whatsoever as regards examination, as regards degrees to be given, or about taking away or cancelling their certificates. Those are bodies constituted, and under that Act this autonomous body is entitled to issue degrees or diplomas under which the holders of them are enabled to call themselves chartered accountants. I would also ask this Honourable House to remember as to what would be the effect if the present law is allowed to stand, coupled with the law which has been approved of by the Select Committee. Under the present law, section 144—and Honourable Members will notice that no notice has been given of any amendments for changing 144—under section 144 the position is. No one is entitled to act as an auditor until he gets a certificate from the Governor General in Council. Pausing there for one moment, it is mandatory for the auditor to get a certificate from the Governor General in Council, but so far as the Governor General in Council—if I may shortly call it the Government,—so far as the Government is concerned, the position is this. The Government may by notification and after previous publication make rules for grant, renewal or cancellation of such certificates, and without prejudice to this general right, they can provide for the maintenance of a register of accountants, prescribe the qualification and emoluments on the register, provide for examination of candidates and so on. The point which I am making is this. Supposing this provision made by the Select Committee is not changed in this House in spite of all that I can urge to the contrary, the legal position will be that under section 144 there will be nothing to prevent the Governor General in Council publishing new rules tomorrow and under those rules a certificate will be given only to holders of degrees from chartered accountants or incorporated societies. There is nothing to prevent that being done. This is not an idle threat, but we shall be driven to that position.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Unfair position.

The Honourable Sir Nripendra Sircar : It is far less unfair than calling people who are not chartered accountants, chartered accountants.

An Honourable Member : Oh, oh !

The Honourable Sir Nripendra Sircar : “ Oh ” is a good argument (Laughter), but there is better argument—I think Honourable Members know that under section 21 of the General Clauses Act, where under any Act powers are given to the Governor General in Council to frame rules, that implies that he can cancel those rules and change those rules. “ And in spite of the ‘ Oh, oh ’, I would say that under section 144 there is no compulsion, no obligation on the Governor General in Council to hold any examination or issue any certificates, none whatsoever, and the Governor General in Council can lay down, under the provisions of section 144, that certificates will only be issued to persons who hold diplomas

[Sir Nripendra Sircar.]

of a certain kind, namely, from the chartered accountants or from incorporated societies. It is unfair, I point out to my Honourable friend, Pandit Malaviya, that nothing can be more unfair than calling these gentlemen who have chosen the term Registered Accountant,—and after all, what else can they choose under this section? We have to maintain a register, there he is on the register, he is an accountant, he is on the register, and therefore registered accountant is all that he is entitled to. It is not like as in South Africa where there is no royal charter but the charter is constituted by their Act. The Act is the charter for the South African people.....

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : What about your assurance that Government will do something?

The Honourable Sir Nripendra Sircar : I said that something yesterday, my Honourable friend, Mr. Lakshmi Kanta Maitra, can rest assured that what I said yesterday I shall repeat today before I resume my seat. As a matter of fact, if one reads the memorandum which has been put forward by this Society, one cannot help noticing, whether they are good accountants or bad accountants, they are first class political intriguers, if I may use that expression. May I read from page 6 and ignore my Honourable friend, Mr. Saksena's inaudible interruptions? In page 6 of their memorandum they say this :

“ We should be allowed to carry on as accountants in our motherland.”

Now, that word “ motherland ” has already melted the heart of my Honourable friend, Pandit Govind Ballabh Pant.

An Honourable Member : Why should it not?

The Honourable Sir Nripendra Sircar : Why not? Well, let us see what is the reason behind it :

“ We should be allowed to carry on as accountants in our own motherland with a decent and self-respecting status, without any artificial device being imposed on us which would brand us, and incidently therefore the whole nation....”

That is the point that has done the trick. Their appeal to the motherland, to the nation has done the trick. We shall not therefore look into the reasons :

“ and, therefore, the whole nation, with an inferiority complex.”

That is to say, there is nothing much to complain of, but our inferiority complex is due to the fact that these gentlemen who are not chartered accountants are called registered accountants. That is the appeal to nationalism, independence, flags and so on.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : They should add “ Bande Mataram ”.

The Honourable Sir Nripendra Sircar : Yes, Sir, you suggest that. (Laughter).

Then, Sir, the next thing was that a pathetic appeal was made and it is this. British accountants in India use designations of chartered accountants and their Indian colleagues who are equally well trained are denied this privilege. As I said, Sir, as politicians they are absolutely first rate. They have first of all taken the name of ‘ Motherland ’ and

'inferiority complex of the whole nation'. They now take the most effective line, by starting it on racial lines, although there is no justification whatsoever as I shall proceed to show in a minute. He may talk of the Britisher. That is because that will appeal to some section of the House to vote at once for them but the fact is today at Calcutta, we have a large number of Bengalis—I daresay the same is the case in Bombay but I cannot speak for Bombay—a fairly decent number, who are chartered accountants or who are members of the Incorporated Society of Accountants, which is also an effective three years course. Therefore it is not the Britisher but chartered accountants as such are affected and as a matter of fact I have received letters of protest and resolutions from Indians at Calcutta who object to this provision made by the Select Committee. (Interruption by Professor Ranga.) I will not take any notice of my friend's interruptions.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions · Non-Muhammadian Rural) : He only wanted to know the proportion between Indian and non-Indian chartered accountants.

The Honourable Sir Nripendra Sircar : I shall be able to give it to you through the mouth of some other speaker.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Also incorporated accountants.

The Honourable Sir Nripendra Sircar : Surely they are not less than the Britishers. I will give you more accurate information later on. Then I would ask Honourable Members to see what has happened as the result of this provision. Clause 75 is the one which Mr. Sen by his amendment wants to be deleted. This provides that when so acting, that is to say, when acting in connection with these profit and loss accounts, balance sheets and so on, he is authorised to append to his signature, the designation Chartered Accountant, India. Well, Sir, therefore what is the position. Under this statute you can authorise him to use his designation. But what happens if he is looking into the accounts of a partnership firm or into the voluminous accounts of my friend, Sir Cowasji Jehangir, what will happen. The man cannot call himself Chartered Accountant, India, because he has nothing to do with company law. Therefore the anomalous position is this. The rule making power under section 144 is given to the Governor General in Council. Under Rule 12, they will be called Registered Accountants. They may go on signing the company's papers as Chartered Accountant but they will be called registered accountants because Rule 12 is there and as I said no attempt has been made to take away the powers of the Governor General in Council given to him by section 144. That is the position. If outside the company law, outside this provision this registered accountant signs himself Chartered Accountant possibly action may be taken against him but I won't go into that. This statute cannot possibly authorise him to do anything outside company law. That will be outside the scope of this Act and the result is he will sign himself as Chartered Accountant, India, on the profit and loss account but he will sign other papers in connection with other forms of business as registered accountant, which is the name he has got to bear under Rule 12, a name approved of by him.

Then, Sir, we have got the power to say that he can sign himself as Chartered Accountant, India. I am not questioning the power but I am

[Sir Nripendra Sircar.]

questioning the desirability of it and when it affects other people. We have the power for instance to say that any *durwan* in charge of company's goods will call himself Field Marshal, India. Or a company boat's serang will call himself the Rear-Admiral of India. You cannot help that. You cannot provide for all that in this Act but you cannot go outside the functions of the company law to give them any status.

Mr. M. S. Aney (Berar Representative) : Does the Honourable Member think that the distinction between a chartered accountant and a registered accountant is as big as the difference between a Commander-in-Chief and a *Durwan* ?

The Honourable Sir Nripendra Sircar : It is very difficult to measure the difference between the two but I have made some inquiries and I can assure my Honourable friend that in the case of the chartered accountant, the syllabus, the system of examination and so on are very much stiffer. That is the case with the Incorporated Accountant also, as compared to the examination held by the Government of India for giving certificates.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : You have satisfied yourself on that ?

The Honourable Sir Nripendra Sircar : I can assure my Honourable friend that I have inquired of the very people who have examined them and who have seen the syllabus and I am absolutely certain that the two examinations are not the same. I am giving my own impressions. Other people may be able to give their experiences. The chartered accountant's course is a five years course and the incorporated accountants' course is a three years course and if I may use a colloquial expression it is easier than the former but the examination held by the Government of India and is not even up to the standard of the examination of the Incorporated Society.

Before I resume my seat, I would like to take notice of an interjection by Pandit Pant. He said it is not a fraud, he is referring to South Africa, to call themselves chartered accountants in South Africa. Yes, Sir. The answer to that is this. In all matters relating to goods or to the designations of professional people, or trade mark, the question is what a particular name signifies. If I say to Sir Cowasji Jehangir "I am a chartered accountant, will you allow me to examine your accounts ?" What will that signify ? Is it not bound to carry the impression that I belong to one of these societies and I have got a degree from them. Supposing I go to South Africa today and say "I am a chartered accountant" what will be the meaning conveyed thereby ? The chartered accountant there is now well established under the charter given to them. Their accountants are called chartered accountants, provided they get their degrees from the autonomous body created by the statute. Therefore the fraud here lies in the fact that the unwary may be misled to think that this man who calls himself a chartered accountant is really a chartered accountant. I would like to inform the House in passing that there are certain words which are not allowed to be used in connection with companies. I am not suggesting that an accountant is a company but in connection with companies why should those words not be allowed to be used ? Because it may mislead the public. If my Honourable friend will turn to clause 5 of the Bill, he will find that among the prohibited words in connection with the incorporation of companies are the words "municipal"

or "chartered" why? Because the public might be misled. That is why the word "chartered" is not allowed to be used unless there is good ground for it and the sanction of the Governor General in Council has been taken under clause 5. That is the very reason why in this case, with much greater force, I respectfully submit to the House, people who are not chartered accountants should not be allowed to mislead the public. Sir, before I resume my seat I shall answer my friend, Pandit Lakshmi Kanta Maitra's question. What I said yesterday and what I repeat today is this, that from the history which I have given beginning from 1925, this I submit so, quite clear.....

Sir Cowasji Jehangir : The Honourable Member did not mention what happened before 1925?

The Honourable Sir Nripendra Sircar : I did not mention it because, like about snakes in Iceland, nothing has to be said, as happened before 1925.

Sir Cowasji Jehangir : There are accountants today who are allowed to audit the accounts of companies by Government who existed before 1925. What happened to them?

The Honourable Sir Nripendra Sircar : Some of the accountants are seventy years old, they must have existed then, but my point is that, before 1925, no attempt was made by Government to have any control over accountants or any body of accountants. Of course they exist; some of them live very long,—these accountants—I know. (Laughter.)

Sir Cowasji Jehangir : There are numbers of them in existence.

The Honourable Sir Nripendra Sircar : I do not understand the reasoning of my Honourable friend. Why should they not exist?

Sir Cowasji Jehangir : I only point out that in giving the history of these men he did not mention what has happened to the men who were accountants before 1925.

The Honourable Sir Nripendra Sircar : Nothing happened; when, as I say, it was for the first time taken up in 1925, it follows that before 1925 there was no control or attempt at control by Government over accountants. They must exist, of course; that is not their fault, that is the work of their parents. (Laughter.) Sir, before I resume my seat I will answer the question of my friend, Pandit Lakshmi Kanta Maitra. I think I said yesterday and I repeat that the history shows that at any rate from 1925 the matter has been taken up by Government and they have not been unfriendly to the accountants: that in the very near future Government propose to take up the whole question. When I say "the whole question", I mean the subject-matter of the possibility of having a body of Indian accountants who will have a higher status, a status the same as or similar to that of those who are now known as chartered accountants, or a status similar to that. The whole of that question, *viz.*, how it can be done, and when, if legislation is necessary, that legislation has got to be taken up,—these are all questions now very indefinite but which we intend to take up in the near future and I repeat what I said yesterday that this attempt to allow the accountants to enter through the back-door, in fact this attempt not to "enter" but "half enter" through the back-door, because, after all, outside company law they still remain registered accountants,

[Sir Nripendra Sircar.]

will not only not help the body of accountants,—and Government are anxious to help them—but will be a definite retardation. I submit this amendment ought to be accepted.

Pandit Krishna Kant Malaviya : Sir, my Honourable friend, the Law Member, although he was not in one of his most devastating moods, was certainly in a most unchivalrous, unjust and merciless mood.

The Honourable Sir Nripendra Sircar : Where is the lady ?
(Laughter.)

Pandit Krishna Kant Malaviya : He began by making most sweeping remarks about the poor registered accountants. He has called them political intriguers, men who are anxious to commit frauds, men who want to usurp the dignity of others and who want to enter by the back-door ; he suggested that they were men lacking in self-respect, men who wanted to deceive the unwary public. Sir, Aristotle thought that man is a social being, Carl Marx and others also of his way of thinking made out that man is always actuated by selfish motives, that classes always are anxious to crush the masses, Fraud and Jung have come to the conclusion that sexual instinct is the incentive for all our activities, and so on, but, Sir, it was left to the Honourable the Law Member to come forward and declare that our poor registered accountants only wanted to be chartered accountants because they are anxious to commit frauds and to deceive the unwary public. He has told us that the Government of India hold examinations and give the degrees.

Sir, this is exactly like what we have in our Military Department : the King's commissions and the Viceroy's commissions. The Governor General or the Viceroy in every-day parlance is said to represent the King but so far as the poor registered accountants are concerned, he cannot issue a royal charter ; and what these poor accountants feel is this, that in their own motherland they cannot rise to the highest positions. In spite of passing examinations, in spite of all that they may do, they will be dubbed as inferior beings. This is what they resent. They say that those of them that are not rich enough, who cannot go and live in a foreign country, can not rise to the highest and are dubbed inferior beings. They do not want any favours, they want fair-play. They declare, "hold your test, have your examinations, the stiffest possible that you can, but let us have opportunities to rise to the highest positions in our own motherland". That is all that they demand. They do not say that they should be allowed to call themselves chartered accountants without passing any examinations. They want that they should be asked to enter if you like the stiffest examinations, but once they have passed those examinations, they should be allowed to rise to the highest status. Why is it that there is a glamour around the name of the chartered accountants ? Why is it that the Government of India themselves attach more importance to an examination which is held in a foreign country as compared with the examination which they hold themselves ? The Registered Accountants want that the Government of India should raise the standard of examination as high as possible. These accountants are proficient and are well up so far as their duties are concerned, and they say that they should be allowed to call themselves chartered accountants, or anything which will suit the Government of India and which will compel the latter to regard them as the best in this land, as those who can be compared with the best

in other lands. That is all that the registered accountants want. Sir, the Honourable the Law Member said that he has received protests from Indian chartered accountants who have been to foreign countries and have obtained degrees there. Sir, if such protests are heard then the old Indian Civil Service people would raise objection against those who pass the Indian Civil Service here. The registered accountants want that there should be simultaneous examinations here in this country if there is any glamour about the chartered accountants' examination there ; just as examinations are held here in the case of the Senior Cambridge and Junior Cambridge and the Indian Civil Service, why can't the Government have similar simultaneous examinations, like that of the Institute of Chartered Accountants, in this country also ? That is all that the poor registered accountants want. They want that they should have the same status in this country as the chartered accountants have in their country. My Honourable friend, the Law Member, gave the analogy of South Africa and the United States of America ; but he forgets that in the United States of America the accountants who pass the examinations held by the State there are held in higher esteem than the accountants who pass the examinations in England. This is all that the Indian registered accountants want. They want that the examinations which are held by the Government of India and the examinations which they are required to pass should be regarded as the best in the land and they should be treated not as inferior to the chartered accountants but, if not superior, at least equal to them. This is all that I have to say.

Pandit Govind Ballabh Pant : Sir, I listened to the speech of the Honourable the Law Member with the attention that it deserves and with the respect that a gentleman occupying his responsible position is entitled to. I intend to deal with this question in a dispassionate matter. I, however, regret that the Honourable the Law Member should have charged this poor class of accountants, who hold a very pitiable position and whose only offence is an effort to secure a title, the lack of which places them at a disadvantage, with fraud, intrigue, with their being imposters, opportunists and so on. He has poured his sarcasm on these people. I do feel that he has used heavy cannon to hit a fly. There are others here whom he can treat with his unparalleled and matchless powers of sarcasm and ridicule. But this small class of accountants who eke out a living somehow by their hard work and whose only offence has been an effort by direct appeal and representation to the Government and by trying to enlist the support of this House to raise their own status, should have come in for that withering scorn which is characteristic of the Honourable the Law Member. Sir, coming to the terms of this motion, I wish to request the Honourable Members of this House neither to be led away by the appeal made by those people in the name of motherland, which, let me hope, is not an anathema for anybody here, nor to be repelled because an appeal has been made in this manner. The position, as it exists today, is this. The most important work that any accountant or auditor can do or be called upon to do in this country can only relate to the accounts of companies. These registered accountants have, according to law, the authority and are considered to be competent enough to examine and certify the correctness of the accounts of firms like Messrs. Tata and Company, of which the figures run into millions. Therefore, so far as their competence and reliability are concerned, there is no dispute, for

[Pandit Govind Ballabh Pant.]

no man can be entrusted with work of a more responsible character than these registered accountants are required to do. They are considered to be efficient enough to examine and certify the correctness of accounts of any firm, however big and, however extensive its business may be, that is situated in this country. In the circumstances, it is, I think, reasonable to conclude that so far as their capacity, ability, sense of responsibility and respectability are concerned, they do not lag behind any other class of accountants. For whom do you require higher and better status? What superior functions are those people to discharge who are equipped with a better and nobler designation? Is there anything more responsible and more exacting possible in this land than the scrutiny of the accounts of the affairs of Tata Iron and Steel Works? If such firms can come under the scrutiny of these accountants and auditors, I see no reason why these people should be supposed to be lacking in qualifications, competence or efficiency. Can you ever conceive of anything more responsible being done now or hereafter by any body of accountants or auditors in this country than the checking of accounts of firms such as I have mentioned? When they can be credited with such work, I submit that they are entitled the best designation that we can give them and in these circumstances their request should not be treated as unceremoniously as it has been so far.

Then, Sir, the main arguments that the Honourable the Law Member has advanced, I think, fall under two heads.

12 Noon.

In the first place, he thinks that in other countries where there are chartered accountants a statute had to be brought in for this purpose and as we have not got such statutes here, therefore these people should not be called chartered accountants by means of an amendment to the Indian Companies Act. The second criticism is this. We have not got an autonomous body but the Government itself is in charge of this accountancy profession and accountancy board. Therefore, these people should not be called chartered accountants. Now, Sir, as to the latter argument, it seems to me really incomprehensible as to why the Government should not be prepared to call people, who are entirely under their control, chartered accountants if they are prepared to empower other bodies to give them that designation? It comes to this that because a person is entirely under my control and because I can regulate the syllabus, the examination and everything that has to be done with reference to the examination of accountancy, therefore he should not be called a chartered accountant, but if I were to entrust these duties to another independent person, then he can do so! That is really illogical. The Government has the plenary power to regulate the syllabus and the method of examination of these accountants; they are in sole charge of accountancy profession; there is no danger of the standard going down. There is no danger of these people being treated in a lax manner or in a very lenient way because the Government itself is in charge of the entire accountancy profession. It frames the curriculum, it prescribes the standard syllabus, it conducts the examination and everything else in this connection. But we are told that because there is no autonomous body in charge of this profession, therefore these people should possess a lower status. That is really a very preposterous argument. When we had independent

autonomous Universities dealing with the medical profession in this country and giving medical degrees, we were told that those degrees could not be recognized by other countries, especially by the United Kingdom, because there was no responsible Government officer to inspect and to examine the syllabus and the examinations of these autonomous bodies. That was the argument then advanced against the Indian medical degrees, that those people who got those degrees got them through autonomous bodies which were not subject to the control of the Government and consequently there was the danger that the standard might go down because the Government had no voice and therefore it was not proper to give them equal status with those who held medical degrees from the United Kingdom. That was the argument then pressed and we know how an Inspector of Medical Degrees was forced upon this country by the United Kingdom in order to control the autonomous bodies. That was the argument then. Now we are told that because the Government themselves are in charge of it and because there is no autonomous body, therefore these people are not entitled to be treated on an equal footing with the chartered accountants of the United Kingdom! What a contrast? How inconsistent it is? Then, Sir, the other argument was that we are not framing a self-contained statute. But who is responsible for it? What happened in this connection in 1930? I would remind Honourable Members that the major portion of section 144 of the Indian Companies Act was introduced by the amending Bill of 1930 and it had only one purpose, namely to regulate the profession of Auditors and Accountants generally. If Honourable Members will be pleased to look at section 144, they will find that no Act framed with the sole object of establishing a Board of Accountancy and of prescribing a designation for persons securing the certificates through such examinations could be more thorough than this section 144. I will read out to the House sub-section (2A) of section 144 which says :

“ In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) provide for the maintenance of a Register of Accountants, entitled to apply for such certificates ; ”

That is a Register of Accountants on the same footing as a Register of Medical Practitioners, or other qualified professional men, so it provided for a complete register for all qualified Accountants :

- “ (b) prescribe the qualifications for enrolment on the Register and the fees thereof ;

- (c) provide for the examination of candidates for enrolment and the fees to be paid by examinees ;

- (d) prescribe the circumstances in which the name of any person may be removed from or restored to the Register ;

- (e) provide for the establishment, constitution and procedure of an Indian Accountancy Board, consisting of persons representing the interests principally affected or having special knowledge of accountancy in India, to advise him on all matters of administration relating to accountancy, and to assist him in maintaining the standards of qualification and conduct of persons enrolled on the register ; and

- (f) provide for the establishment, constitution and procedure of local accountancy boards at such centres as the Governor General in Council may select, to advise him and the Indian Accountancy Board on any matter that may be referred to them.”

[Pandit Govind Ballabh Pant.]

I submit that if we had been passing a separate statute to deal with this profession of Accountancy, we could have placed nothing more than or different from what is contained in the section I have read out. This would have been the whole of the statute and it is already there. It controls and regulates the entire profession, it prescribes and provides for the constitution of a Board of Accountancy for the whole of India, for the formation of Local Accountancy Boards, for the registration of qualified accountants, for the control of their professional etiquette and all other things connected with the establishment, constitution and regulation of these Boards. Now, Sir, are we to be blamed because this provision forms part of the Companies Act and is not a separate statute by itself? That can be the only objection. Otherwise, every relevant factor which can have a bearing on a matter of this sort is there, and that was the reason why this Bill was framed and passed and ultimately included in the Companies Act of 1930. We have been told that there is no statute. I will tell you what happened in 1930 and what the Government then said. The Government said that they were leaving these matters to be decided by rules so that there might not be rigidity; otherwise they would have passed an Act giving greater details even. I may refer to the speech of Sir George Rainy who said :

“ Sir, I should like to explain the reason why we do not propose that the constitution of the Accountancy Board should be settled by the Act itself but should be left to rules. That was a decision which was arrived at only after very full and careful consideration. What we feel is that if the constitution of the Board were finally settled by the Act, the scheme would become too rigid, etc., etc.”

So the statute is there, the statute was framed with this purpose, and a certain amount of elasticity was provided in the statute so that it may be adjusted in the light of the changes occurring from time to time. This is as good a statute as any passed by South Africa, Canada, Rhodesia or any other country. In these circumstances a separate statute is not necessary. Let us go further and see what did this statute provide? The section says :

“ The holder of a certificate granted under this section shall be entitled to be appointed and act as an auditor of companies throughout British India.”

Then, there are rules framed under this section which are very elaborate and provide that persons getting certificates in this manner will be called Registered Accountants. The only thing that we urge is this : that it is for you to regulate the curriculum, it is for you to prescribe the standard : you need not call them Registered Accountants, but call them Chartered Accountants (India). I must say here that Government have failed to carry out the recommendations of the Indian External Capital Committee. I may inform Honourable Members as to who were the Members of this Committee which is well known as the External Capital Committee. They were Sir Basil Blackett, Sir Charles Innes, Mr. Bell, Dr. Maitra, Mr. G. A. Natesan, Sir P. S. Sivaswami Aiyer, Pandit Madan Mohan Malaviya, Mr. Vithalbhai J. Patel and Mr. Wilson. The External Capital Committee unanimously recommended in 1925 that steps should be taken to establish the order of Chartered Accountants in this country. Parenthetically they suggested “ that the formation of an all-India Institute of Chartered

Accountants would appear to provide means of meeting the suggestions of Dr. Slater referred to in the preceding paragraphs. We do not wish to go into further detail on the subject of banking education beyond emphasizing its importance, but we feel that its investigation would lead to useful results". This was the unanimous recommendation of this body in 1925. What have the Government done up-to-date to carry out their recommendations? If there are anomalies, who is to blame for it? Why did they not take steps to establish this order of Chartered Accountants in this country as recommended unanimously by this Committee in 1925 and since then twelve long years have elapsed, but no steps have been taken to establish this order of Chartered Accountants in this country: and the reasons are obvious. Even if you analyse the statement of the Law Member today you will find how guarded it is. He says that Government will examine the situation with a view to see if something cannot be done to secure for the accountants a status similar to that of Chartered Accountants. This status in reality they already have; they are discharging all the duties which the Chartered Accountants perform. But the difference is only this, that while the members of the Indian Civil Service are called I. C. S. the members of the provincial civil services in our country performing duties even more onerous and responsible, because they are brown in colour, are called P. C. S. and get lower salary and emoluments. That is the main difference. So far as the status in the matter of duties and responsibilities goes, I do not see any distinction between the two. The fact remains that a registered accountant is an Indian,—registered accountants are exclusively Indian,—but so far as Chartered Accountants go, within that charmed circle of fine fairies only a few lucky Indians are admitted. So, Sir, the difference is not altogether non-racial. Now, Sir, we are told that it is a fraud. If it is a fraud we should certainly take care that whatever be the reason and however sound be our motive we do not make ourselves parties to the fraud. But which is a fraud? Is it a fraud to give people a different name, to make an invidious distinction between one class and another when both perform the same set of duties and discharge the same responsibilities, and to exclude one of those classes from a popular name which prejudices them in their own country; or is it a fraud to claim that if their duties are coeval, if their responsibilities are similar, they must also possess a similar name? I should like to know where the fraud lies. With whom, and who is responsible for it? If we were told that these people cannot discharge certain responsibilities, that it is not within their competence to do certain things which other people alone can, and that under the cover of this name they will arrogate to themselves a position and powers which they do not possess, there would be some ground for such criticism. But the fraud is there when you call a man an I.C.S. and the other P.C.S. simply to serve your own purpose. For real purposes all P.C.S. people are entitled to be, called I.C.S. I see who practices the fraud, I see where the canker lies.

Sir, we were told that if these people are called Chartered Accountants, others are likely to be misled. This is the first time that we have come to know that if a person calls himself a Chartered Accountant with "India" within brackets,—I have no grievance. If the Honourable the Law Member and the expert in charge of this Bill does

[Pandit Govind Ballabh Pant.]

not care to listen to what I say, because I know that no argument will appeal to them. Their minds are made up and their opinions are already formed, I have no quarrel if they do not even give themselves an opportunity of listening to arguments lest their reason be embarrassed. Coming back to the subject, I was talking of fraud. The other day my friend, Mr. Paliwal, gave a list of about 15 countries where every person who is qualified to audit accounts of companies is entitled to call himself a Chartered Accountant. Sir, why should it be supposed that if we call ourselves "Chartered Accountants (India)" we are referring to Glasgow and Manchester and Liverpool and Kimberley and Timbuctoo only? Why should it not be supposed that I may be a Chartered Accountant according to the charter possessed by Nova Scotia or Newfoundland? But if these 15 countries have been allowed to play this fraud on the people of their own as well as other countries, let us follow in their wake and be the sixteenth in order. But, Sir, we are told that in those countries there might have been no occasion for misapprehension. But, even in those countries the phrase "Chartered Accountant" happened to be popular and those in power thought that their own nationals were subjected to an artificial disability by being denied the title of Chartered Accountant. Their state was similar to our present state, and in those circumstances they decided to introduce the title "Chartered Accountant" subject to their own regulations for the nationals of their own country. But at the moment it started the reason was exactly similar to the reason which has forced our hands today. Does Sir Homi Mody really think that an ordinary company manager here really knows the difference between a registered accountant and a Chartered Accountant? Why does he favour a Chartered Accountant at the cost of a registered accountant?

Mr. N. M. Joshi (Nominated Non-Official) : Snobbery.

Pandit Govind Ballabh Pant : Yes. The difference is that the man has only heard the name Chartered Accountant. The name Registered Accountant is not known; so men who have gone through the fire here and possess similar qualifications are denied the opportunity which they are entitled to because of the wrong designation. And why should this invidious distinction be made in the name? Sir, we were told that in all those countries statutes were passed and autonomous bodies were formed. Here is a provision in this Act. Why do you not form an autonomous body here? Who stands in your way? You do not form an autonomous body because you do not trust the Indian accountants. On the other hand you use that argument for not giving these people the status to which they are entitled. Sir, I submit that from whichever point of view you may look at it, these people are entitled to be called Chartered Accountants (India). We were told that it is a fraud. How is it a fraud? We have had to fight,—does not Sir Homi Mody know?—for about 50 years in this country to secure the status of Advocates for Vakils. We were told that only Barristers could be called Advocates and not Vakils.

Sir H. P. Mody : Will you allow Advocates to be called Barristers? Ask your Leader.

Pandit Govind Ballabh Pant : Now Barristers are called Advocates as much as Vakils are called Advocates. I am not concerned with anything else. I want a common status for all of them; but I am prepared

to offer a compromise, and it is this. Let it be a rule that even Chartered Accountants practising in this country will be called Registered Accountants. They will be registered in the registers here before being given any license for auditing.

Sir H. P. Mody : They are registered.

Pandit Govind Ballabh Pant : I agree. If they are registered, call them also Registered Accountants. Do not accept their status as Chartered Accountants as adequate for the discharge of their duties here. It is because they are registered here that they possess those qualifications. Eliminate that phrase "Chartered Accountant"; call them Registered Accountants. Make it penal for anybody to call himself a Chartered Accountant here, and I will not quarrel. Let all be called Registered Accountants. That also will satisfy my sense of national pride; it will give me equality with other alien people. At a time like this, Sir Homi Mody perhaps knows better than anybody else, what practice obtains in the United Kingdom and France. There are statutes to the effect that you cannot engage non-nationals as domestic servants in the country without a license from the Minister in charge of the Interior. That is the law in France, that is the law in the United Kingdom, and in several other countries. And in Germany perhaps Sir Homi Mody may be taken as a Jew and shot. (Laughter.) Leaving that alone, the fact remains that, while all other countries have restricted employment within their own borders to their own nationals, here we are told,—we should not do justice to Indians as such course will be at the cost of the privileges, prerogatives, and special advantages enjoyed by non-Indians in this country. Well, Sir, that is an argument which does not appeal to men like me.

I think His Excellency the Viceroy told us the other day in the course of his speech that the question of middle class unemployment was causing him a great deal of concern.....

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : May I ask for some information? Where is the distinction made between Chartered Accountants and Registered Accountants either under the Indian Companies Act or under the rules?

Pandit Govind Ballabh Pant : Up to this time I had thought there was no distinction made, but when I was told that it is a fraud to allow these people to call themselves Chartered Accountants, then I discovered that there was some distinction in the background to hit these people, otherwise, so far as the performance of duties and the discharge of responsibilities go, these people are as fully qualified as the Chartered Accountants, with this difference that Chartered Accountants get higher fees.....

Sir Cowasji Jehangir : May I point out that the question put to him was, "where is the distinction made in our Companies Act as it stands today between a Chartered Accountant and a Registered Accountant"? The answer to that question is that under rule 12 all those who get certificates should be called Registered Accountants.

Pandit Govind Ballabh Pant : I am thankful to my Honourable friend, Sir Cowasji Jehangir, for answering the question he put.

Mr. M. A. Jinnah : That is not an answer to my question. My question was—is there anything in the Companies Act or under the rules framed by the Governor General in Council which prohibits any company employing a Registered Accountant or a Chartered Accountant, as the case may be.

Mr. Susil Chandra Sen (Government of India : Nominated Official) : There is no such distinction.

Pandit Govind Ballabh Pant : Much lies in the....

Mr. M. A. Jinnah : I am only getting information.

Pandit Govind Ballabh Pant : So far as responsibilities and duties go, nil, so far as designation and names go, yes.

Mr. M. A. Jinnah : In whose opinion do they carry a higher status?

Pandit Govind Ballabh Pant : In the opinion of these Registered Accountants who have been treated so badly all these years.

Well, Sir, I was referring to the speech which His Excellency the Viceroy made here a few weeks ago. In the course of his speech His Excellency expressed grave concern over the question of middle class unemployment in this country, and he thought that the Government must address itself to this question as one of the foremost questions of the day. Well, Sir, I have no doubt that His Excellency the Viceroy was perfectly sincere, but what about his Government? How are his intentions to be translated into action? Whatever avenues there are, they are all blocked for middle class educated men. Privileges are given to people who do not belong to this country, and the gates are open to those who come from outside. I say, Sir, the present arrangements work to the disadvantage of our people and our country, and that is the reason why I want this change.

One word more, Sir. We are told that they will write "Ind." against their name, but it will be in obscure illegible letters which will not perhaps be visible without a microscope. Sometimes one may require a telescope to distinguish the faces of his own country men sitting opposite to him. I do not quite see what their colour is, what their complexion is, what is in their heart,—I do not know if they have a soul or not. For that I require a telescope, though they are sitting just opposite to me. So it may be necessary to have a microscope for looking at these letters. But, Sir, is there no remedy to be found for this, while these unscrupulous people may put in the letters 'Ind.' in that obscure, illegible manner, is there anything to prevent others from advertising "Non-Ind." in blazing waving lines that may be seen from a distance of 101 miles. Sir, we have M.A.'s and LL.B.'s as in Cambridge, but our people do not put 'Ind.' after their degrees. There are mechanical Engineers again qualified in England as in India. Are not their titles common? Are we thereby defrauding the employers? This glamour for foreign degrees and diplomas will continue under this hypnotism of foreign rule. We are told that we are suffering from an inferiority complex. I do not mind suffering from an inferiority complex if it goads us on to a superior status, but I do not want superior arrogance if it tends to perpetuate an inferior status. So I want the House to look at this question quite dispassionately. I am not very much concerned in the course of this debate with the result of our motions and

amendments. Many of them have been thrown out, to which we attached great importance ; some of them have even been misunderstood. We do not worry, but it is our duty to place before the House, according to our lights, the correct and the right view. We do not claim any infallibility, and it is for this House to judge, whether we are right or wrong. But my appeal to my friends is this. If you are satisfied that the case of these people is right, then do stand by them.

Sir Cowasji Jehangir : Mr. President, I fail to see the anxiety of some of my friends to curtail the debate, because, after all, it has become rather an important question that we are discussing now. I also regret that the Honourable the Law Member is not able to be present here due to indisposition. It is difficult to criticise his speech in his absence, and if I do happen to criticise it, I hope he will excuse me for my having to do so in his absence, because his absence is due to reasons over which he himself has no control. I am afraid his speech was most unfortunate.....

(At this stage, the Honourable the Law Member entered the Chamber.)

I was just saying, Sir, that we regretted that your absence was due to indisposition. We all trust, after the strenuous time you have had over this Bill, you will soon be restored to your usual health. As I was just saying, in my humble opinion, the Honourable the Law Member's speech was particularly unfortunate on the present occasion. There is no crime in anybody of professional men making a memorial to Government stating that they desire to have in their motherland the same status, the same position as any one else, be they their own countrymen or not, educated in a foreign country. There is no crime in drawing the attention of Government to their feelings of disappointment, after years of petitioning, at not being allowed to have that status in their own country.....

The Honourable Sir Nripendra Sircar : What is this about years of petitioning ? When did they petition ?

Sir Cowasji Jehangir : They have been mentioning this to me since 1930, and I have had occasion to argue in this Honourable House, in that very debate which was quoted by the Punditji,—that they should be allowed to have the same status in their own country, while doing the same work as men educated in England or Germany or France. Sir, in doing that I consider they committed no crime: I consider that they have been fulfilling a duty and if this sort of argument had not been placed before the Government during the last fifty years, we would have had no advocates, we would have had no LL.Bs. and we would have had no professional men. What are these men asking for ? They ask that an examination should be instituted in this country, as strict as you like to make it, which will enable this country to produce the professional men called Chartered Accountants (India). They ask for no more than what has been done in South Africa, in Australia and in Canada. In South Africa you have chartered accountants who come into existence after passing an examination : it may be that their examination was the result of a statute, that their charter was the result of a statute ; but as the Punditji pointed out, the registered accountants are also under a statute : the statute is the Companies Act ; and section 144 of the Act provides that they shall pass an examination. My point is, having passed that

[Sir Cowasji Jehangir.]

examination, regardless of what they are called, they shall be in a position to carry on their profession of accountancy just as efficiently or as inefficiently as any chartered or incorporated accountant in India.

Now, my Honourable friend, the Leader of the House, gave a short history of accountants in India. There were accountants in India before 1925. They audited accounts and nobody challenged their authority to do so ; and many of those men are alive today, men who had not passed the examination specified in section 144, and who are still efficiently doing their work as accountants. They are not called registered accountants : they have a register of their own and they will soon naturally die out. In the same way, the registered accountants say : " You have made us pass an examination : you now call us registered accountants : why do you not put us on the same basis and give us the same status that accountants have in different parts of the Empire ? " Is it a crime to aspire to be put in the same position in India as the South African is in South Africa ? Is it a crime to desire and petition Government that they should in future give Indian accountants the same position and the same status that a Canadian has in Canada ? I cannot understand this excitement and this strong language used against a class of men who desire and who petition to have their status improved. I do not desire to take up a considerable amount of the time of this Honourable House. The crux of the question is, what is the assurance that the Honourable the Leader of the House has given to this House ? He states—and I trust he will correct me if I do not interpret what he said absolutely correctly—that Government undertake to look into this question at a very early date : that they will see to it that accountants in the future will have the same status as chartered accountants have today in India. If the Honourable Leader of the House will, since he is in his seat, kindly give me his attention for two or three minutes—I will not worry him longer because I really think that we are inflicting upon him speeches just now when he is perhaps least capable of hearing them and listening to them—I understood him to say that the assurance he gave on behalf of Government was that they would look into this matter at a very early date. If legislation was necessary, they would legislate to put Indian accountants in the same position and give them the same status as is enjoyed by chartered and incorporated accountants in India today. Am I correct ? But he did not state in categorical terms that the result of that examination would be to turn out men who would be entitled to call themselves Chartered Accountants (India), similar to the statute in South Africa and similar to the position held by Canadian accountants in Canada. The assurance that I desire to have from my Honourable friend is this : that whatever investigations he makes, whatever examination the Government finally decide to have, the result of it all will be that those who pass those examinations will be entitled to call themselves chartered accountants (India), just the same as accountants do in South Africa and Canada. That is the assurance I desire to have. My Honourable friend, I trust, will be prepared to add those few words to the assurance he has already given ; and I see nothing wrong in it. If I did, I would not press for it. I will again repeat that if South Africans can have the status of being called Chartered Accountant (South Africa) and Canadians can have the status of being called Chartered Accountants (Canada), there is no reason why Indians should not be called chartered

Accountants (India) provided they pass the examination which Government under statute decide they should, to entitle them to have that title and that status. That is what I ask for. Now, Sir, just one word about our registered accountants. My Honourable friend, the Leader of the House, has characterised them in rather strong language. But let me tell this House from my own personal experience that I have found our registered accountants no inferior to the best chartered accountants that have come out to India, and to me, as an individual, there is no glamour in the title "chartered accountant".

The Honourable Sir Nripendra Sircar : Then don't worry about it.

Sir Cowasji Jehangir : I am only one, but there are many others who are misled. Because the fact that a man happens to be a chartered accountant or an incorporated accountant signifies nothing to me till I see his work, and I have known cases where chartered accountants have been very poor specimens of their profession, and I have known registered accountants who have been first class professional men in their own work. I have also been informed,—my information may, or may not be accurate, but it comes from a good source, *viz.*, the men who have been examiners for these registered accountants—that the syllabus which is now laid down for registered accountants is no inferior to the syllabus laid down in England.

The Honourable Sir Nripendra Sircar : That is wholly wrong.

Sir Cowasji Jehangir : I may be incorrect, but that is the information given to me by a man who is considered to be an authority on this question, who is himself an incorporated accountant and who has been an examiner. I may be wrong. If I am wrong, it is up to Government to tighten up the examination to make it one deserving of this country and of the men whom, we trust, we shall have in the future. The difference is that an Indian going to England for three or four years naturally is in a different atmosphere to that in his own country, and naturally he has perhaps better opportunities of gaining experience. That is certainly an advantage, and I would be the last to deny the advantage that is gained by an Indian who lives in Europe for two or three years. I do not deny that advantage, but my information is that that is the only difference. I do not know whether my Honourable friend, the Leader of the House, is prepared to augment his assurance to the extent I have stated.

Mr. Sami Vencatachalam Chetty (Madras : Indian Commerce) : He is in a cantankerous mood.

Sir Cowasji Jehangir : No. Without the Leader of the House this Bill would never have gone through ; it was his great legal acumen....

The Honourable Sir Nripendra Sircar : It has not gone through yet.

Sir Cowasji Jehangir : It will go through, and if it does not go through,....

Some Honourable Members : It will go through.

Sir Cowasji Jehangir : ...and if it does not go through, well, my Honourable friend knows that there are not a few men who are not going to weep. At any rate, this question is a very peculiar one, it does not really affect the Companies Act ; it has crept into it. I again repeat, I

[Sir Cowasji Jehangir.]

am sorry I have to repeat it so often because I get no response, (Laughter), if the Honourable the Leader of the House would be prepared to augment this assurance of his, this side of the House would be very pleased indeed.

The Honourable Sir Nripendra Sircar : I did not know that you speak for that side of the House. (Laughter.)

Sir Cowasji Jehangir : I have a right to speak for this side of the House, because I sit on this side of the House. I have as much right to speak for this side of the House as the Honourable Member has to speak for that side, and I do speak for this side of the House ("Hear, hear" from the Congress Benches), and this is not the first time that I have done it. If that pleases the Honourable Member any better, I will say, I will be very pleased—not this side of the House, but the individual myself, and perhaps that will mean one vote. The Honourable Member will realise that even one vote is important. I will be very pleased if the Honourable Member would augment his assurance to the extent that the result of Government's investigations, the result of tightening up the machinery of producing these accountants will eventuate in our Indian accountants being called chartered accountants (India), in which there will be no fraud—if there is fraud, the fraud is all over the Empire.....

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : The Empire itself is a fraud. (Laughter.)

Sir Cowasji Jehangir :in which there will be no fraud and in which Indian accountants shall enjoy the same status, the same position, the same dignity, the same capacity of earning a livelihood in India as the South African in South Africa and the Canadian in Canada. If that assurance will be given by my Honourable friend it will please me individually.

The Honourable Sir Nripendra Sircar : Then you will vote for me ?

Sir Cowasji Jehangir : I will go further and say that if the Honourable Member will give that undertaking just now, that assurance, may vote will be with him.

The Honourable Sir Nripendra Sircar : The vote of that side ? (Laughter.)

Sir Cowasji Jehangir : Just now my Honourable friend said that I was not representing any side and I am representing myself. You cannot deny.....

Mr. President (The Honourable Sir Abdur Rahim) : We cannot have such bargaining for votes across the floor of the House.

Sir Cowasji Jehangir : Mr. President, that is done every day of our lives here. The very essence of the Legislature is compromise and bargaining, and without compromise and bargaining we can never go ahead. I make a good proposition to my Honourable friend and I trust that he will be agreeable to my suggestion and augment that assurance as I have suggested.

Mr. M. A. Jinnah : I am rather in a delicate position, because the Leader of the House says that he will not give any assurance or any undertaking on behalf of the Government unless I secure to him every vote of every Member on this side.... (Laughter.)

The Honourable Sir Nripendra Sircar : I did not mean that.

Mr. M. A. Jinnah : Government ought not to go by that, and my Honourable friend, as usual, was indulging in a little joke. When my Honourable friend, Sir Cowasji Jehangir, spoke from this side of the House, of course, he is in the opposition but his is the mildest opposition on this side. (Laughter.) The opposition is of a varying degree, and as it goes more and more to my right, it increases in volume.

An Honourable Member : Except Sir Homi Mody.

Mr. M. A. Jinnah : Nevertheless we claim to be the Opposition of the Government. Now, coming to the subject itself, I have been trying to understand what the real dispute is. As far as I can see, section 144 of the present Act runs as follows :

“ No person shall be appointed or act as an auditor of any company other than a private company unless he holds a certificate from the Governor General in Council entitling him to act as an auditor of companies.”

I take it, therefore, that whether he is a registered accountant or whether he is a chartered accountant he comes under this section 144, that is to say, he must hold a certificate before he can be appointed an auditor of any company. Therefore so far as that part of 144 is concerned, it seems they are all on the same footing. Then the provision is made that the holder of a certificate granted under this section shall be entitled to be appointed and act as an auditor of companies throughout British India. Now, there are two points that strike me. The reluctance on the part of the Government to allow them to append their designation as Chartered Accountants (India) can only be on one ground—that at the present moment the Indian or the registered accountants are not so well qualified as those who are chartered accountants holding a certificate from Great Britain and having been registered here. If that is the ground, namely, that there is a marked difference in the capacity or the qualification of these auditors, then that is a very different question altogether. Then the answer to that is that it is high time that the Government of India did take steps to lay down such qualifications or alter the syllabus in such a way that they may also acquire that high efficiency and those high qualifications which would enable them to designate themselves as Chartered Accountants (India), in the same way as in Australia, Canada or South Africa. Therefore, I do ask the Government that if that is the real reason, they ought to give an assurance to this House that they will take immediate steps to create those institutions and those conditions where an Indian can stand on the same footing as anybody else.

The Honourable Sir Nripendra Sircar : May I interrupt my friend, if he will permit me. Possibly my friend was not here yesterday when I spoke. Perhaps I may repeat what I said this morning, because some of my friends were not here. What I said was that the whole question of the possibility of having a body of Indian accountants here, who, without the trouble of going to England, will acquire a status which will be the same or similar or near to that of chartered accountants, will be taken into consideration by Government and in the near future. That is the language I used, they intend to take steps for investigating that end. What I cannot commit myself to at the present moment—I may be in a better position to have some idea a couple of months or

[Sir Nripendra Sircar.]

so after—is as to what exactly the steps are which have got to be taken and in what direction and what we shall have to do. But what we are quite prepared, as I said, to do is to make inquiries and to explore all avenues to find out what may be done and whether legislation will be necessary. There has been legislation in other parts of the Empire. That is one of the possibilities which Government have got to seriously consider and they have not the slightest objection to take up that legislation, should ultimately that be considered necessary. If I did not answer in response to my friend Sir Cowasji Jehangir, it was because I thought I had made the position perfectly clear but if it is not clear, I will say once more that the object which the Government of India have in mind is the desirability of having a body of Indian accountants here with higher status. That is the proposition which we want to examine in the very near future. If there is any further point which my friends want to be cleared up, I am in a position to meet them.

Pandit Krishna Kant Malaviya : I want to know from the Honourable the Law Member whether we could take the words “in the near future” to mean that it will not be far beyond 1937.

The Honourable Sir Nripendra Sircar : I did not mean beyond 1937. I meant that the matter and the possibilities are to be considered in near and not remote future. The consideration is expected to start before 1937 is over.

Pandit Govind Ballabh Pant : There is one point I want to put to the Honourable the Law Member. I want to know whether after the Government have taken measures to have men of this status, they will be prepared to give them the designation of “Chartered Accountants, India”?

The Honourable Sir Nripendra Sircar : If legislation is necessary, then that is a matter which has got to be put before the Legislature. I did not want to go into it further because the whole thing is in a nebulous condition, and legislation is only a possibility.

Pandit Govind Ballabh Pant : That is the whole issue.

The Honourable Sir Nripendra Sircar : It is quite possible that Government may after inquiries will come to the conclusion that while on the one hand we should have one set of Indian accountants who may have the status and the designation of “Chartered Accountants”, or something similar, on the other hand we ought to have another class with lower qualifications who on smaller fees may be available for responsible work. These various matters, as I said, are in a nebulous condition. I cannot be definite about them but I am quite definite about what I said namely, that the whole matter will be taken up in the immediate future.

Pandit Govind Ballabh Pant : May I take it that while there will be people who will be qualified to do inferior work by way of audit and accountancy who will not possess the qualifications and the superior status and will consequently not be called “chartered accountants”, there will nevertheless be a class of people who will be fully qualified and will be called “chartered accountants”?

The Honourable Sir Nripendra Sircar : You are right, except in this, that we have not made up our minds as to whether there will be the two classes or whether there will be only this superior class. As I said, the whole thing is in a nebulous condition, even the necessity of legislation, and the designation.

Mr. M. A. Jinnah : I think I will accept the statement of the Law Member, speaking as he does on behalf of the Government. So far as this question is concerned, I will not pursue it any further. But I want to make my position more clear generally. At present, there is nothing at all to prevent any company from appointing an auditor who holds a certificate, whether he be a chartered accountant or a registered accountant. One is as good as the other within the meaning of the statute. Apart from the qualifications, my friend, Sir Cowasji Jehangir, pointed out that there are certain Indian Registered Accountants who are far more efficient and far superior to any chartered accountant. We have got instances in other professions also.

The Honourable Sir Nripendra Sircar : That is quite possible.

Mr. M. A. Jinnah : One fact remains, that there is no bar whatever so far as the companies are concerned from appointing any auditor they like, whether chartered or registered. If the fact is that the essential matter as to the qualifications are still in doubt until we get that new legislation, would it be desirable that all the registered accountants should be allowed to append and style themselves as chartered accountants, (India) ? Would it be desirable ? And don't you think that in the present state of things when there is no bar, it is for each company to decide the matter for itself. Take for instance the case of a litigant. If an ordinary litigant attaches more importance to me than to my friend, the Leader of the Opposition, and says " Well, Mr. Jinnah is a barrister while my friend, the Leader of the Opposition, is an Advocate ", who is to blame ? In the Bombay High Court, we stand on the same footing, we have the same rights and the same privileges, and if some misguided person attaches more importance to me because I am a barrister, well it is his misfortune. (Laughter.) My friend, the Leader of the Opposition, may be far superior. Therefore, Sir, it really comes down to this. A glamour is attached to Chartered Accountants, and there are some companies who will be so foolish as to appoint a Chartered Accountant, who may not be sufficiently competent as compared to a far more competent Registered Accountant.

An Honourable Member : Certain Banks insist upon Chartered Accountants.

Mr. M. A. Jinnah : If they do so, it is their misfortune. The crux of the whole matter is that the Government of India should take immediate steps to carry out what the Honourable the Leader of the House has just said, and as they have given an assurance, they must carry it out without undue delay. Mind you, I stand for Indian talent, I want free scope for Indian talent, I want complete privileges and same rights as those given to anybody else in my country. (" Hear, hear " from Congress Benches), but let us proceed in some methodical manner. I do hope that the Government will not any longer delay in taking up this matter.

1 P.M.

Several Honourable Members : The question may now be put.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, the position of Chartered Accountants is very similar to the position of degrees granted by the universities. We know that in England, universities are always created by a Charter, and the Universities are alone entitled to give degrees. In India the Universities are created by an Act of the Legislature, they are corporate bodies, and they alone are entitled to award degrees. Suppose tomorrow the Education Department of the Government of India by means of legislation begin to award the B.A. or M.A. degree, I am perfectly certain that everybody will protest that this is the exclusive privilege and right of the Universities which are corporate bodies and created in India by an Act of the Legislature and in the United Kingdom by Royal Charter. The same is the case of the Chartered Accountants. The diploma of Chartered Accountancy is always given by a chartered body ; it is a corporate body and it is entitled by Royal Charter to award these diplomas. But in India the position is different. The question of charter can be taken up by the Legislature, and unless we create in India a body corporate, it is not possible for any Government Department to award this distinction. However much the Government may desire to change the nomenclature from Registered Accountants to Chartered Accountants, they cannot do it. This privilege is confined to a body corporate created by an Act of the Legislature, and therefore the first thing to do is to create a body corporate who may be entitled to give the title of Chartered Accountant in the same manner as is done in the United Kingdom. Therefore, Sir, in this particular Act we cannot possibly change the word "Registered" into "Chartered" Accountants, because nobody in India is authorised to give this particular title unless you create a special corporate body by an Act of the Legislature.

The second thing is this, there should be no delay in creating this corporate body for giving the title of Chartered Accountant in India in the same manner as is done in the Dominions. As regards registration, it may be left to the Government to register any person they like. They can register some of the accountants who have taken the title of Chartered Accountant from an Indian corporate body or an English body or for that matter from any corporate body which is entitled to give the diploma of Chartered Accountant. I submit, Sir, it is not right to use the words 'Chartered Accountant' unless and until by means of an Act of the Legislature we create a corporate body with powers to give people this particular distinction. With these few words I support the motion.

Several Honourable Members : The question may now be put.

Mr. President (The Honourable Sir Abdur Rahim) : Several Honourable Members want to speak. The Leader of the Opposition wanted to speak on this amendment, but he is not here. I can't put the question now.

The Assembly then adjourned for Lunch till Twenty-Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Twenty-Five Minutes Past Two of the Clock. Mr. Deputy President (Mr. Akhil Chandra Dutta) in the Chair.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muham-madai Rural) : Sir, in view of the discussion that has taken place, I do not wish to occupy the time of the House longer than is necessary. At the same time, I consider it important to analyse section 144 as it stands at present with the rules. And what is it that we desire to have even better than the existing legislation ? Under section 144 as it now stands, the position is somewhat analogous to what my friend, Mr. Jinnah, described at the Bar. Without being admitted as an Advocate, nobody is entitled to practise, though the qualifications for such admission are, either the man has called to the English or the Irish Bar or that he has passed an examination in India prescribed by the Judges, or after a certain amount of standing, the Judges may dispense with it. In other words, they belong to the same class, and every one of those items is a qualification for belonging to that class. That appears to be the view taken by the rules 6 and 7 which are framed under section 144, and the only question that remains really is that, while the minimum qualification is prescribed as being sufficient, a possible choice between persons of that class may arise adversely by reason of a certain name given to a small section of it, and when you come to rule 12, it prescribes the name. Therefore, within the limits even of the present legislation, it is certainly competent to the Government under the powers conferred on them to give any designation they think right and proper to the class qualified for the purpose under section 144. Rule 12 says this :

“ A person enrolled on the Register shall be entitled to style himself ‘ Registered Accountant ’ or where he practises under a trade name such as Ram Lall & Company, ‘ Registered Accountant ’ and to use the letters ‘ R.A. ’ after his name as long as his name continues to appear on the Register.”

In other words, if it was competent to the Governor General in Council to call them “ R.A. ”, they could equally and easily have been called Chartered Accountants, India. It is purely a question of name which is given. It is a name which can be altered at their pleasure, because ‘ Registered Accountants ’ is an artificial description,—it may have been Certificated Accountants, it may have been Registered Accountants, it may have been Enrolled Accountants, or it may have been anything, and I venture to think myself, though there may be difference of opinion, that within the limits of the present section 144 and the rule-making power in that behalf that the designation could be conferred. I personally think, once it comes to a question of the power of the Legislature to confer a name on a class, there can be no question of a fraud, no more and no less than when the name was first given in the 15 Colonies or States or Dominions in which it is given. It may equally well have been argued in those Dominions that prior to that, ‘ Chartered Accountant ’ had a meaning, namely, that certain classes of persons under item (1) of rule 7, namely, the Institute of Chartered Accountants in England and Wales, were recognised. As regards the other five items, they really had not come under them. Therefore, I say it is permissible to grant that name. If the objection is that the qualifications are not high enough, it is open again to the

[Mr. Bhulabhai J. Desai.]

Government under the same section to raise the standard by way of making necessary changes in the syllabus and to hold an examination founded upon it. At the same time, the only view that commends itself to me about this is that it is within the power of the Governor General in Council within the meaning of section 144 and the rule-making power in that behalf to give any designation they think proper as the Act stands at present. But if the intention is to create by means of a statute an autonomous body of Accountants in India,...

Mr. M. A. Jinnah : Quite right.

Mr. Bhulabhai J. Desai :who would then be able to confer the title.

Mr. M. A. Jinnah : That is exactly what we want. We don't want the Governor General in Council to do it.

Mr. Bhulabhai J. Desai : I certainly would prefer it, and though it is competent within the law to do it, yet, because of the promised creation, at all events I shall not say promised, but contemplated creation of a body of Accountants with an autonomous constitution of their own having the power to grant degrees and give designations, and in particular "Chartered Accountants (India)", we do not think it worth while to press this matter.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That sub-clause (b) of clause 75 of the Bill be omitted, and the subsequent sub-clause (c) be re-lettered as sub-clause (b)."

The motion was adopted.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I beg to move :

"That to clause 75 of the Bill, the following be added at the end :

'(d) after sub-section (9) the following new sub-section shall be inserted, namely :

'(10) If the Local Government is of opinion that in the case of a particular company, proper audit cannot be ensured if the appointment of the auditor rests with the company or its directors, the Local Government may for one year or more appoint an auditor for the said company (who will supersede the auditor, if any, appointed by the company or its directors) and fix the amount of fees to be levied from the company and fix the remuneration and other incidental charges to be paid to the auditor so appointed and may frame rules for the purpose.'"

My friend, Sir Homi, is laughing at me when I read this amendment of mine.....

Sir H. P. Mody : I am laughing at the amendment and not at you.

Babu Baijnath Bajoria : As regards this amendment, Sir, I may say that I am merely representing the views of the Registrar of Joint Stock Companies, Bengal. (Laughter.).....

Mr. Bhulabhai J. Desai : It is enough to condemn it.

Babu Baijnath Bajoria : The Honourable the Leader of the Opposition says it is enough to condemn it, but you have to remember that the Registrar of Joint Stock Companies has to deal with all the papers filed

in his office by the companies ; he is the officer who exercises supervision over companies on behalf of the Local Government. This is what he says here, Sir :

“ Section 144. I would press for the addition of another sub-section.”

I won't read out the whole thing. What he writes is practically on the lines of the amendment I have moved. There is a wide spread apprehension that all is not well with the audit of companies. This apprehension is not confined to one Chamber of Commerce, but to various Chambers of Commerce, the Shareholders' Association, and even a nationalist paper like the *Amrita Bazar Patrika* in its leading article of the 22nd September last,—I trust the Honourable the Leader of the House has seen this article,—makes serious comments about the auditing of companies' accounts as is done at present. This paper also makes serious comments about the auditing of companies that is obtainable at the present moment. This apprehension is not due to the fact that auditors are not capable, or that they are not honest people, but this is due to the system of appointment so that they after all being human beings, on account of human weakness the auditing is not done properly. They are appointed nominally by the shareholders in a general meeting but for all practical purposes they are appointed by the managing agents. Sir, I will read a few lines from what the Registrar of Joint-Stock Companies has said :

“ If the present system of audit has in most cases been a failure, proper audit in most cases is rendered impossible on account of the system of appointment.”

He also says that “ I do not deny that auditors are honest or capable, but the present system of appointment causes dishonesty or weakness in them ”.

Mr. M. A. Jinnah : How does it ?

Babu Baijnath Bajoria : Sir, what I propose now to do is this,—that in case the Local Government or the Registrar thinks that the auditing of a certain company is not being done properly or they have reason to believe that it is not being done properly, then either of them will appoint another auditor for one year or more just as they choose so that the auditing of the company may be put right. It may be said that it will go against the reputation of the company but we can rely on the Local Government that they will take steps only when a critical situation arises. Sir, section 144 deals with the appointment and the qualifications of auditors and section 145 deals with their duties and powers but there is no clause in this Bill which deals with the provision that if the auditing is not done properly, some remedy should be provided, and I think this amendment, if accepted, will remove this difficulty to a certain extent. The auditor will have a fear that if he does not audit properly, then somebody else may be appointed by the Government and then he may be exposed. At the present moment, the shareholders have got no remedy and do not know whether the auditing is done properly or not and the auditors are completely at the mercy of the managing agents. If the auditors try to find too many faults with them, then they will not be appointed at all ; they will be turned out at the next meeting. With these few words, Sir, I commend my amendment to the House.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That to clause 75 of the Bill, the following be added at the end :

‘ (d) after sub-section (9) the following new sub-section shall be inserted, namely :

‘ (10) If the Local Government is of opinion that in the case of a particular company, proper audit cannot be ensured if the appointment of the auditor rests with the company or its directors, the Local Government may for one year or more appoint an auditor for the said company (who will supersede the auditor, if any, appointed by the company or its directors) and fix the amount of fees to be levied from the company and fix the remuneration and other incidental charges to be paid to the auditor so appointed and may frame rules for the purpose ’.”

Mr. Susil Chandra Sen : Sir, I oppose this amendment and the reasons are these. Firstly, my friend’s amendment talks of “ proper audit ”. We do not know what he means really by that. He says that the Registrar of Joint-Stock Companies, Bengal, feels that in many cases auditing is not done properly and that the proposed amendment is necessary. Sir, under the existing statute the Registrar has powers to require explanations and make enquiries regarding anything which is wrong in balance-sheets or other documents which are filed with him under section 136. but over and above that, the amended Act will give him further rights enabling him to enquire into any suspected fraud and so on. There is, therefore, absolutely no reason adduced as to why this amendment is necessary. How is the Local Government is to be brought in and to start investigations as to whether the auditing of any company is properly done or not. These matters are private in the sense that it has got nothing to do with Government. Sir, the powers which are there, and which have been newly given, if properly exercised by any Registrar, are quite enough to set right anything which may be found wrong in audit, and while we admire the zeal of the Registrar of Bengal, we think he is certainly overstepping the limits, in asking for this amendment. Sir, I oppose the motion.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That to clause 75 of the Bill, the following be added at the end :

‘ (d) after sub-section (9) the following new sub-section shall be inserted, namely :

‘ (10) If the Local Government is of opinion that in the case of a particular company, proper audit cannot be ensured if the appointment of the auditor rests with the company or its directors, the Local Government may for one year or more appoint an auditor for the said company (who will supersede the auditor, if any, appointed by the company or its directors) and fix the amount of fees to be levied from the company and fix the remuneration and other incidental charges to be paid to the auditor so appointed and may frame rules for the purpose ’.”

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 75 of the Bill, after sub-clause (c) the following be added :

‘ (d) to sub-section 6, the following further proviso shall be added, namely :

‘ Provided further at a meeting where the auditors are appointed, neither a director nor a managing agent shall either personally or by proxy have or exercise any vote in connection with such appointment ’.”

Sir, an auditor's appointment is made at a general meeting. An auditor is appointed to check the accounts of a company when it is managed either by a managing agent or by the directors in a body, and therefore by this amendment I want to avoid their having a hand in the appointment of an auditor, because if they are the persons to choose the auditor, the latter will certainly be obliged to them and may not do his work properly. Sir, with respect to directors, there is already a provision to the effect that directors who are interested in a contract ought not to have a vote. A similar provision ought to be made with respect to shareholders who are interested in the management. If they are allowed a hand, the auditing business may not go on properly. I, therefore, move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 75 of the Bill, after sub-clause (c) the following be added :

‘ (d) to sub-section 6, the following further proviso shall be added, namely :

‘ Provided further at a meeting where the auditors are appointed, neither a director nor a managing agent shall either personally or by proxy have or exercise any vote in connection with such appointment ’ ”.

Mr. Susil Chandra Sen : Sir, I oppose this amendment. Sir, the amendment is rather startling. Sir, in deference to the wishes of the Leader of the Opposition, I will not make any speech beyond saying that the amendment is sufficiently condemned by reading it only.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 75 of the Bill, after sub-clause (c) the following be added :

‘ (d) to sub-section 6, the following further proviso shall be added, namely :

‘ Provided further at a meeting where the auditors are appointed, neither a director nor a managing agent shall either personally or by proxy have or exercise any vote in connection with such appointment ’ ”.

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 75, as amended, stand part of the Bill.”

The motion was adopted.

Clause 75, as amended, was added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : At this stage, I think we should go back to clause 52 which stood over the other day. Mr. Sen.

Mr. Susil Chandra Sen : Sir, yesterday clause 52 stood over for the purpose of finding out if certain consequential amendments were necessary. If you will look at clause 52 and at section 101 by reason of the changes in the period certain consequential amendments were necessary. A question was also raised by my Honourable friend, Mr. Chetty, as regards the rate of interest mentioned in the section. May I, with your permission, Sir, deal with the last point first ? My Honourable friend, Mr. Chetty, objected to the provision regarding the payment of the moneys by way of refund with interest at 7 per cent. He wanted to suggest that as you are restricting the mode in which the moneys may

[Mr. Susil Chandra Sen.]

be kept or invested, namely, that you now want it to be kept in a scheduled bank where payment earned in the shape of interest cannot go beyond 1 per cent. or possibly 2 per cent., how is it possible, for the directors to pay interest at 7 per cent. ? My Honourable friend, while making that suggestion, apparently did not read the section carefully. The section provides that if the allotment is not made within a certain time, the moneys by the prospective shareholders have got to be refunded without any interest. If the directors, however, elect to sit tight on the money and not refund it, then by way of penalty they are inflicted with an interest of 7 per cent. There is nothing to be said against this. The directors have the power to refund the money in due time but if they chose to be dilatory or if they chose not to observe the provisions of the section, they are themselves to blame. The provision to pay interest at 7 per cent. is by way of penalty and no change is called for. As regards the other clauses, I am handing over a draft to my friend, Pandit Govind Ballabh Pant, showing the consequential changes which have to be made for his approval and may I hand it to you now.

Several Honourable Members : Read it out.

Mr. Susil Chandra Sen : Clause 52, as suggested, should read as follows :

“(3) To sub-section (3) of the said section the following be added, namely :

‘ All moneys received from applicants for shares shall be deposited and kept in a ‘ Scheduled Bank ’ as defined in section 2 of the Reserve Bank of India Act, 1934, until a certificate is obtained by the company from the Registrar in terms of section 103 (2) of the said Act, or until it is repaid in terms of sub-section (4) of this section.

(4) In sub-section (4) of the said section, for the words ‘ Twenty ’, ‘ Thirty ’ and ‘ Thirtieth ’ the words ‘ Eighty ’, ‘ Ninety ’ and ‘ Ninetieth ’ shall be substituted.

(5) After sub-section (8) of the said section a new sub-section be inserted, namely :

‘ (9) If default is made in complying with the requirements of sub-section (3) of this section, every director of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding rupees five hundred ’.”

I hope this meets with the approval of all sections of the House.

Pandit Govind Ballabh Pant : Sir, there is one difficulty. My amendment yesterday was accepted and adopted. So, unless Mr. Sen's amendment is moved by way of an amendment to that amendment, I think the whole of it cannot go on because that amendment has already been adopted.

The Honourable Sir Nripendra Sircar : I saw the shorthand transcript and it says that the whole of clause 52 stands over.

Pandit Govind Ballabh Pant : My amendment was adopted. After that it was pointed out that there was need for the consequential amendment to have ‘ Ninetieth ’ instead of ‘ Thirtieth ’. Then, Mr. Chetty raised the question that the rate of interest in the Act, 7 per cent., is very high. Then, the Honourable the Law Member was pleased to observe that the question could not well be disposed of at that time. Then this clause was left over, but my amendment has been adopted. The number of my amendment is 161. In fact, I have given the transcript to Mr. Sen.

Mr. Susil Chandra Sen : I did not get it.

Pandit Govind Ballabh Pant : I sent it over to you ; it is not with me. My amendment has been accepted. It has already gone in :

“ In sub-section 4 of section 101 of the said Act for the word ‘ twenty ’ the word ‘ eighty ’ and for the word ‘ thirty ’ the word ‘ ninety ’ shall be substituted.”

So has the second part of my amendment which says :

“ All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank till a certificate has been filed with the Registrar under section 101 (1) (c) of the said Act and in case no allotment is made within the prescribed time the same shall be returned to the applicants.”

The last part of my amendment has also gone in which reads :

“ In the event of any contravention of the provisions of sub-section 2C every promoter, director or other person knowingly responsible for such contravention shall be liable to a fine not exceeding Rs. 500.”

The only thing that remains is this consequential amendment, namely, that in place of ‘ Thirtieth ’ we should have ‘ Ninetieth ’.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I think there is that difficulty. As a matter of fact, the whole of the amendment (No. 161) was adopted. So, I think the suggestion made by Pandit Govind Ballabh Pant may be accepted. In that case, the new amendment may be moved as an amendment to amendment No. 161.

Sir E. P. Mody : May I explain to my Honourable friend, Mr. Sen, that Pandit Govind Ballabh Pant's amendment has been adopted and it now forms part of sub-section (4) of section 101. So, all that my Honourable friend has got to say is : That in sub-section (4) of section 101 for word “ Thirtieth ” the word “ Ninetieth ” be substituted.

Mr. Susil Chandra Sen : I will meet the Honourable Member this way : Sir, I move :

“ That in amendment No. 161, in place of the words “ the word ‘ thirty ’ the word ‘ ninety ’ ” the words “ the words ‘ thirty ’ and ‘ thirtieth ’ the words ‘ ninety ’ and ‘ Ninetieth ’ ” be substituted.”

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in amendment No. 161, in place of the words “ the word ‘ thirty ’ the word ‘ ninety ’ ” the words “ the words ‘ thirty ’ and ‘ thirtieth ’ the words ‘ ninety ’ and ‘ Ninetieth ’ ” be substituted.”

The motion was adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 52, as amended, stand part of the Bill.”

The motion was adopted.

Clause 52, as amended, was added to the Bill.

Clause 76 was added to the Bill.

Clause 77 was added to the Bill.

Clauses 78, 79 and 80 were added to the Bill.

Dr. Ziauddin Ahmad : Sir, I beg to move :

“ That after clause 80 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 81. After section 154 of the said Act, the following new sections shall be inserted, namely :

- ‘ 154A. Notwithstanding anything contained in this Act, an Inspector appointed by the Local Government shall be entitled to attend all meetings of Directors and of members. He shall have a right to take part in discussions, but he shall have no vote.
- 154B. Notices of the meetings of the directors and of the general meetings of the members shall be sent to the Inspector.
- 154C. The opinions expressed by the Inspector shall be recorded in the proceedings.
- 154D. The amount allotted to depreciation and reserve fund shall not exceed the figures recommended by the Tariff Board.
- 154E. The amount allotted for payment of dividends shall not exceed 6 per cent. of the paid up capital.
- 154F. Net profits of the company shall be deposited in special fund which shall be spent according to the rules framed in this behalf by the Local Government ; an amount not less than one-fourth of the excess profit is allotted to the servants of the company and an amount not less than one-third for the payment of additional dividend.’ ”

Sir, I really want to differentiate between two classes of companies, that is companies which deal with protected industries and companies which do not deal with protected industries. In the case of companies which do not deal with protected industries, the whole question is between the managing agents and the shareholders. The consumers of the country have no concern in this matter but the case of protected industries is entirely different. Here not only the shareholders come on the scene, not only the managing agents come on the scene, but we have also to consider the interests of the consumers who substantially contribute towards the profits of the companies. I would just like to take the figures for several protected industries, that is, companies which deal with protected industries.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Before the Honourable Member proceeds further, I have to point out that I do not quite understand the proposed section 154-A. Companies dealing with protected industries—what are these words at the beginning which are detached from the section ?

Dr. Ziauddin Ahmad : That ought to be really shown as a marginal note. There is always in every Act a marginal note about every topic.

Coming to sugar which is one of the protected industries, the consumers contribute a very substantial amount to the industry. I have calculated the amount in two different ways. I find that the contribution of the consumers to this industry is nearly three crores a year. First take up the figures of production. The production of sugar in 1935-36 was 1,76,33,568 cwts. That is the real production at our mills. The amount of contribution which the consumers have to pay is about two rupees per cwt. and which comes to about three crores. You may either take it in this way or calculate it from the amount of excise duty that is collected from the sugar industry. The excise duty collected last year

was Rs. 1,58,51,000. The amount of profit is twice the amount collected in the way of excise duty. In that way we find that the contribution by the consumers to the companies dealing with sugar alone is about three crores. Therefore in the profit of these companies a large percentage comes from the consumers themselves. Now, I will give the House some figures about the profits of some of the sugar companies. The Basti Sugar Co., Ltd. with a capital of 12 lakhs made a profit Rs. 2,25,037. The Belapur Co., Ltd., with a capital of Rs. 37,59,800 made a profit of Rs. 10,67,203, a profit of nearly 33 per cent. The Champaran Sugar Co., Ltd., with a capital of 12 lakhs made a profit of Rs. 4,18,836. The Ryam Sugar Co., Ltd., with a capital of four lakhs made a profit of Rs. 1,32,778.

Babu Baijnath Bajoria : These are the best sugar companies.

Dr. Ziauddin Ahmad : Yes ; I have selected these companies because the figures relating to these companies are printed and are available. I have not selected companies whose figures are not available. We gave protection to sugar industry with the intention that they should earn a profit of six per cent., but now we find that they have been earning a profit of something between 30 and 33 per cent. The consumers are paying something like three crores to make up this huge percentage of profits earned by the sugar mills. I say that the whole of the profit ought not to go to the pockets of the shareholders, but a substantial portion should also be shared by other people.

Mr. M. S. Aney : A substantial portion should be returned to the State.

Dr. Ziauddin Ahmad : Give the sugar companies shareholders a profit of six per cent. and whatever is left over should be deposited towards a special fund and the Local Government might be authorised to suggest the method of its expenditure and in this way the amount will come back to the State or it might go to the consumers in the shape of reduction of duties, or a part of it might go to the workmen's benefit and a part might also go to the sugar cane growers who are at present getting a very low value of five annas per maund for their sugar cane. This is a very uneconomic price and they ought to get at least seven annas a maund so that the cultivators also might share the profits which these companies are making.

Sir Cowasji Jehangir : Is this a Tariff Bill ?

Dr. Ziauddin Ahmad : No ; I have moved a particular amendment and I am explaining my point with regard to it. The point is that whenever the consumers of India contribute a substantial amount for the profits of some company, the whole of the profits should not go to the shareholders and capitalists but a portion should be devoted as I have indicated in the amendment.

Mr. M. S. Aney : When there is a loss what is to be done ?

Dr. Ziauddin Ahmad : I am only talking about surplus profits, loss is out of question, so long as excessive protection is given.

Bhai Parma Nand (West Punjab : Non-Muhammadan) : What was the rate at which consumers were purchasing sugar three years ago when the new companies were started ? Was it more or less ?

Dr. Ziauddin Ahmad : 25 per cent. surcharge.

Bhai Parma Nand : That was counterbalanced by the excise duty.

Dr. Ziauddin Ahmad : This excise duty was equivalent to 25 per cent. surcharge which we put on in 1931, and it has nothing to do with the protective import duty originally levied on sugar.

I now come to the textile industry. The contribution of the consumers to this particular industry.....

Mr. M. S. Aney : Sir, on a point of order, I think this amendment is not within the scope of the Bill at all, and I want your ruling.

Mr. Deputy President (Mr. Akhil Chandra Datta) : This amendment deals among other things with the question of dividends and reserve fund and net profits. These are all matters with respect to which amendments have been moved in the Bill. I, therefore, think it is rather in order.

Dr. Ziauddin Ahmad : The point that my Honourable friend, Mr. Aney, did not catch was that I do not want to give to shareholders in the case of protected industries a dividend beyond 6 per cent., and any profit above 6 per cent. must go back to the State. That is the object of my motion.

Now, coming to the mill textile industry, I calculated that the consumers' contribution comes to about 20 crores a year and my manner of calculation was this. I have taken the prices of the imported piece-goods into this country and since the duty varies from 25 to 50 per cent., therefore the duty which we really pay for a yard at an average comes to one anna per yard. Then I took the total amount manufactured in the mills and taking one anna per yard as the contribution by the consumers it comes to 20 crores of rupees. Therefore that is the annual contribution of the consumers of India to the textile mill industry alone. Such being the case, the consumers of India have got absolute right to demand that this taxation should not continue for a very long time. They should manage their affairs well and in the case of excess profits a portion ought to go back to the consumers of the country. And if the administration of the mill industry cannot be put in order by any method then it is much better that we give it up and we should not tax the consumers of this country any longer because 20 crores is really a very heavy tax.

Coming to the steel industry, I had already made a calculation when this Steel Protection Bill came before us for consideration. I said at that time that this was a free gift of 18 crores of rupees which Sir Joseph Bhore at that time put into the pockets of my friend, Sir H. P. Mody, although he was not in charge of this particular company at that time. I will not repeat the arguments which I offered at that time, that it was a transfer of 18 crores from the pockets of the consumers to the Tata Iron and Steel Company. And I said that in Tatanagar they should put on tablet with the inscription, "In memory of Sir Joseph Bhore".

So this is the case. The point I want to emphasise is this, that in the case of those industries in which Government have by special enactments forced the consumers of the country to pay so much to the industries

themselves, the consumers have got a right (1) to see that the administration is good, and (2) whenever there is an excess profit beyond what the Tariff Board themselves recommended, then the excess profits should not go to the pockets of shareholders' managing agents, but it should be shared by other people who contributed to this particular amount. It has been pointed out in the Fiscal Commission's report and also on the floor of this House by successive Commerce Members that whatever tax is put upon the consumers is really a loan to that particular industry and the loan will sooner or later be paid back.

I am making all these accounts for the amounts which we have contributed to the various industries on behalf of the consumers, and I demand of the Commerce Member and the Finance Member to pay back to the consumers what they have forced us to pay to these industries.

Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That after clause 80 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 81. After section 154 of the said Act, the following new sections shall be inserted, namely :

‘ 154A. Notwithstanding anything contained in this Act, an Inspector appointed by the Local Government shall be entitled to attend all meetings of Directors and Companies dealing with protected Industries. of members. He shall have a right to take part in discussions, but he shall have no vote.

154B. Notices of the meetings of the directors and of the general meetings of the members shall be sent to the Inspector.

154C. The opinions expressed by the Inspector shall be recorded in the proceedings.

154D. The amount allotted to depreciation and reserve fund shall not exceed the figures recommended by the Tariff Board.

154E. The amount allotted for payment of dividends shall not exceed 6 per cent. of the paid up capital.

154F. Net profits of the company shall be deposited in special fund which shall be spent according to the rules framed in this behalf by the Local Government ; an amount not less than one-fourth of the excess profit is allotted to the servants of the company and an amount not less than one-third for the payment of additional dividend’.”

As the amendment stands, I am afraid it is meaningless, because there is nothing about protected industries in the body of the amendment itself. And I cannot put the amendment in this form. There is a marginal note which mentions protected industries but that is not part of the main clause. If the Honourable Member wants to press this, he must put it in the proper form.

Dr. Ziauddin Ahmad : I put in that marginal note, because it is put along every new section, and that refers to protected industries.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I am afraid I cannot put it to the House in this form, and I must rule it out of order.

Clauses 81 to 94 were added to the Bill.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That after clause 94 of the Bill, the following new clause be inserted :

‘ 94A. To sub-section (1) of section 183 of the said Act, the words ‘ or by the committee of inspection, and any directions given by the creditors or contributors at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection ’ shall be added at the end ’.”

The object of this is that a new section 178A has been added after section 178 by clause 93 (page 43 of the Bill) : sub-section (4) of that section reads :

“ A committee of inspection appointed under this section shall consist of not more than twelve members being creditors and contributories of the company, etc., etc.”

Sub-section (1) of the same section says :

“ The official liquidator shall within a month....convene a meeting....for the purpose of determining whether or not a committee of inspection shall be appointed to act with the liquidator and who are to be members of the committee....”

Later on, section 183, as it stands at present, says that the official liquidator shall have due regard to the resolution or to the opinions at a meeting of the creditors or contributories and shall act as far as possible in accordance with that direction. Section 183 in the old Act did not have any reference to a committee of inspection because under the old Act there was no such committee : it is appointed under the new Act, for the purpose of advising the official liquidator ; and he has to carry out that advice. But section 183 stands in the way for this reason. There is a general body of creditors and contributories which gives one direction, and the committee of inspection now to be appointed gives another. A conflict has to be avoided in case it arises as to which should prevail. This provision is made in the English Act from which I have copied the language. The old English Act contained similar provisions as are embodied in section 183. The English Act has been amended and the new section which has taken its place contains the amendment which I have moved. It says that the committee of inspection shall also be consulted by the official liquidator and in case there is a difference between the committee of inspection and the general body of creditors and contributories, the directions of the latter shall prevail. I shall read the English section and you will see it has been carried out here verbatim. Section 192 of the English Act says....

Sir Cowasji Jehangir : You contend that this is consequential ?

Mr. M. Ananthasayanam Ayyangar : Yes, on the appointment of the committee of inspection. Otherwise the object of appointing a committee would be absolutely frustrated and the committee would have no object whatever. I shall read.....

The Honourable Sir Nripendra Sircar : We are accepting it.

Mr. M. Ananthasayanam Ayyangar : Then, I need not read it. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 94 of the Bill, the following new clause be inserted :

‘ 94A. To sub-section (1) of section 183 of the said Act, the words ‘ or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection ’ shall be added at the end ’.”

The motion was adopted.

New clause 94A was added to the Bill.

Mr. Susil Chandra Sen : Sir, I move :

“ That after clause 94 of the Bill, the following new clause be added....

In view of the fact that a new clause 94A has already been passed, my new clauses should be 94B and 94C. The amendment will read thus :

“ That after clause 94 of the Bill, the following new clauses be added :

‘ 94B. In section 188 of the said Act, for the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be ’ the words ‘ such of the Scheduled Banks as defined by clause (e) of section 2 of the Reserve Bank of India Act, 1934, where the Liquidator may have his account ’ shall be substituted.

94C. In section 189 of the said Act, for the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay or any branch thereof respectively ’ the words ‘ the Bank where the Liquidator of the company may have his account ’ shall be substituted ’.”

These amendments are consequential upon the amendment which we have already accepted by which we have given the liquidator power to have his account not as before in the Bank of Bengal, Bank of Madras or the Bank of Bombay, but in any of the scheduled banks. These are only consequential amendments and I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That after clause 94 of the Bill, the following new clauses be added :

‘ 94B. In section 188 of the said Act, for the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be ’ the words ‘ such of the Scheduled Banks as defined by clause (e) of section 2 of the Reserve Bank of India Act, 1934, where the Liquidator may have his account ’ shall be substituted.

94C. In section 189 of the said Act, for the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay or any branch thereof respectively ’ the words ‘ the Bank where the Liquidator of the company may have his account ’ shall be substituted ’.”

Pandit Govind Ballabh Pant : I do not know if I am mistaken, but I feel that the language of this amendment does not quite fit in with the Act. The words here “ where the Liquidator may have his account ” seem to me to be redundant. For the words “ the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be ”, the words “ a scheduled bank ” may be substituted. That is all that is needed. I propose that this amendment may be made. The only thing that has to be done is to substitute the words “ a scheduled bank ” for the words “ the Bank of Bengal, the Bank of Madras or the Bank of Bombay as the case may be ”, in both the proposed sections 94-B and 94C. The rest is redundant and makes it useless.

Mr. Susil Chandra Sen : May I suggest that this may be kept over till tomorrow ? There is a suggestion that there is one section of the Imperial Bank of India Act by which these have been altered. I want to look into that.

Mr. Deputy President (Mr. Akhil Chandra Datta) : If it is the pleasure of the House, I have no objection.

(Further consideration of the amendment was held over till the next day.)

Clauses 95 and 96 were added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 97 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muham-madan Rural) : Sir, I move :

“ That in clause 97 of the Bill, to sub-section (1) of the proposed section 208A, the following proviso be added :

‘ Provided that the following persons, that is to say—

- (i) a managing agent of the company or any partner of the managing agent if the managing agent is a firm or director or member of the managing agent if the managing agent is a private limited company or any director of the managing agent if the managing agent is a public company ;
- (ii) a director, auditor or officer of the company ;
- (iii) a partner of such director, auditor or officer ; and
- (iv) any person in the employment of such managing agent, director, auditor or officer ;

shall not be appointed liquidator of the company ’.”

The object of this amendment is to see that the liquidators who are appointed by the companies are independent liquidators. We have provided in the case of the auditors that certain persons should not be allowed to act as auditors. I think that we should make a similar provision in the case of liquidators and it is with that object in view that I move this amendment. The amendment is specially necessary because the appointment of the liquidator is only by an ordinary resolution and not by a special resolution. So some safeguard is necessary in order to protect the interests of the shareholders. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 97 of the Bill, to sub-section (1) of the proposed section 208A, the following proviso be added :

‘ Provided that the following persons, that is to say—

- (i) a managing agent of the company or any partner of the managing agent if the managing agent is a firm or director or member of the managing agent if the managing agent is a private limited company or any director of the managing agent if the managing agent is a public company ;
- (ii) a director, auditor or officer of the company ;
- (iii) a partner of such director, auditor or officer ; and
- (iv) any person in the employment of such managing agent, director, auditor or officer ;

shall not be appointed liquidator of the company ’.”

Mr. G. E. J. Robertson (Burma : European) : I oppose this amendment. The new clause 208A deals only with a members' voluntary winding up, that is to say, a case where the company is solvent and the creditors are expected to be paid in full. In such a case it is the share-

holders who are the really interested parties, and if they choose by resolution to appoint a managing agent, director, or any other person connected with the company as liquidator they should be entitled to do so. This is commonly done in voluntary windings up, since a person connected with the management is fully acquainted with the company's affairs and generally acts without remuneration. I strongly urge that the shareholders should not be deprived of this right particularly in the case of a members' voluntary winding up. On this ground I oppose the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 97 of the Bill, to sub-section (1) of the proposed section 208A, the following proviso be added :

‘ Provided that the following persons, that is to say—

- (i) a managing agent of the company or any partner of the managing agent if the managing agent is a firm or director or member of the managing agent if the managing agent is a private limited company or any director of the managing agent if the managing agent is a public company ;
- (ii) a director, auditor or officer of the company ;
- (iii) a partner of such director, auditor or officer ; and
- (iv) any person in the employment of such managing agent, director, auditor or officer ;

shall not be appointed liquidator of the company ’.”

The motion was negatived.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

Mr. Sri Prakasa : Sir, I move :

“ That in clause 97 of the Bill, in sub-section (1) of the proposed section 208D, after the word ‘ convenient ’ the words ‘ within 90 days of the close of the year ’ be inserted.”

I confidently hope that the Honourable (Ind.) the Law Member (Ind.), Sir (Ind.) Nripendra Sircar, will accept this amendment. I am putting the mystic letters “ Ind.” in large capitals after all doubtful words so that there may be no mistake that I am referring to any functionary in Honolulu, Timbuctoo or Kamatschatka ! I have already introduced to this House a wonderful Bombay liquidator who had almost liquidated me. I do not believe in leaving to the discretion of these liquidators to call meetings at their convenience. I therefore think that the word ‘ convenient ’ should be defined and limited to 90 days from the close of the year. It is to my mind a sufficiently long period during which the liquidator should find it convenient to call a meeting. My own liquidator carried on his operations on a large salary for about six years and I believe he visited England four times in this interval. It was never convenient for him to call a meeting at all. I do hope that the Law Member will find it possible to accept my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 97 of the Bill, in sub-section (1) of the proposed section 208D, after the word ‘ convenient ’ the words ‘ within 90 days of the close of the year ’ be inserted.”

Mr. Susil Chandra Sen : We are glad to accept this amendment in view of the appeal made by Mr. Sri Prakasa.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 97 of the Bill, in sub-section (1) of the proposed section 208D, after the word ‘ convenient ’ the words ‘ within 90 days of the close of the year ’ be inserted.”

The motion was adopted.

Mr. Sri Prakasa : Sir, I move :

“ That in clause 97 of the Bill, in sub-section (1) of the proposed section 209G, after the word ‘ convenient ’ the words ‘ within 90 days of the close of the year ’ be inserted.”

My arguments are the same that I had advanced when I moved a similar amendment a few minutes back which has been accepted by Government. I hope this will be accepted. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 97 of the Bill, in sub-section (1) of the proposed section 209G, after the word ‘ convenient ’ the words ‘ within 90 days of the close of the year ’ be inserted.”

Sir Leslie Hudson (Bombay : European) : Sir, I think it will be very inconvenient to have the words which my friend wants to be inserted.

Mr. Sri Prakasa : You can go beyond 90 days and pay Rs. 100.

Sir Leslie Hudson : There may be very large liquidations, such as the Alliance Bank of Simla. It will be quite impossible to get out their accounts within three months of the close of the year. I am quite sure of that.

Mr. M. S. Aney : There ought to be some provision enabling them to extend the time beyond ninety days in a proper case ?

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 97 of the Bill, in sub-section (1) of the proposed section 209G, after the word ‘ convenient ’ the words ‘ within 90 days of the close of the year ’ be inserted.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 97, as amended, stand part of the Bill.”

The motion was adopted.

Clause 97, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 98 stand part of the Bill.”

Mr. V. V. Giri (Ganjam *cum* Vizagapatam : Non-Muhammadan Rural) : Sir, I move :

“ That in sub-clause (b) of clause 98 of the Bill, in the proposed clause (c), after the words ‘ provident fund ’ the following be inserted :

‘ a pension fund, a gratuity fund or any other fund for the welfare of the employees.’ ”

Sir, in the last three weeks the House has been continuously discussing the interests of the capitalists, of the mill-owners and of the shareholders. I do hope that for a few minutes at least the House will consider the interests of the workers also. Sir, the object of this amendment is that these funds should be considered as preferential payments and given priority over other debts when the time for winding up these companies comes up. I am sure my Honourable friends, Sir Honi Mody, as well as the Baronet of Bombay, will agree with me that the workers are the real producers of the wealth and that the workers are those who really run the industry and therefore, Sir, I consider that the workers are the active or dominant partners in a company and that the capitalists are, after all, the sleeping partners of a company. Sir, it is from the work of these workers that these capitalists get their profits, and therefore I consider that their interests should be the first charge on the industry. Therefore, I do hope that both the Government and the capitalist Members of this House will agree to this reasonable amendment. After all, they must realize that in this country, as in fact in many other countries today, socialism is bound to come, and it will come (Hear, hear), and therefore, if they want to delay it, the best way to do it is by conceding all the reasonable demands of the workers. With these words, Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (b) of clause 98 of the Bill, in the proposed clause (e), after the words ‘ provident fund ’ the following be inserted :

‘ a pension fund, a gratuity fund or any other fund for the welfare of the employees ’.”

Mr. N. M. Joshi : Mr. President, I have great pleasure in supporting the motion moved by my Honourable friend, Mr. Giri. I would only suggest that, as we have a general clause, we may omit the words “ a pension fund, a gratuity fund ”, because any particular mention of these may not be necessary. I should therefore like that these words should be omitted and the amendment should read thus :

“ That in sub-clause (b) of clause 98 of the Bill, in the proposed clause (e), after the words ‘ provident fund ’ the following be inserted :

‘ or any other fund for the welfare of the employees ’.”

Sir, the original Act has given priority of payment to the wages of labourers and the salaries of clerks. The Bill as it has emerged out of the Select Committee has also given priority of payment to deposits in the Provident Fund. We suggest that priority of payment should be given also to any other fund for the welfare of the employees. I hope the amendment will be accepted.

Mr. President (The Honourable Sir Abdur Rahim) : I do not know if the Honourable Member, Mr. Giri, will accept the change of wording in his amendment suggested by the Honourable Member, Mr. Joshi, otherwise I will put the amendment as it is on the order paper. The question is :

“ That in sub-clause (b) of clause 98 of the Bill, in the proposed clause (e), after the words ‘ provident fund ’ the following be inserted :

‘ a pension fund, a gratuity fund or any other fund for the welfare of the employees ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 98, as amended, stand part of the Bill.”

The motion was adopted.

Clause 98, as amended, was added to the Bill.

Clauses 99 and 100 were added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 101 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 101 of the Bill, in sub-clause (a) after the words ‘ the winding up ’ the words ‘ or of the misapplication retainer, misfeasance or breach of trust as the case may be whichever is longer ’ be inserted.”

Sir, clause 101 modifies section 235 of the present Act which enacts that if any director or any other officer of the company misappropriates or commits breach of trust, a suit can be filed within three years after the appointment of an official liquidator for recoveries of those moneys. But the same section says that if the liquidator should commit an offence three years from the date of his appointment, then the penalty is mentioned there. The difficulty is that if the liquidator may commit an offence three years after his appointment, the cause of action is the date of his appointment. This must be due to an oversight, otherwise it is absolutely absurd. Long before the cause of action arises, the limitation for filing a suit disappears. It is quite a novel thing. Therefore, I have said in my amendment that three years ought to be given either from the time of the appointment of the official liquidator if the misappropriation takes place before the appointment of the official liquidator or from the date the misappropriation takes place, whichever is longer. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 101 of the Bill, in sub-clause (a) after the words ‘ the winding up ’ the words ‘ or of the misapplication retainer, misfeasance or breach of trust as the case may be whichever is longer ’ be inserted.”

Mr. Susil Chandra Sen : Sir, we have no objection to this amendment which is really meant to be applicable to cases of misfeasance by liquidators.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 101 of the Bill, in sub-clause (a) after the words ‘ the winding up ’ the words ‘ or of the misapplication retainer, misfeasance or breach of trust as the case may be whichever is longer ’ be inserted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 101, as amended, stand part of the Bill.”

The motion was adopted.

Clause 101, as amended, was added to the Bill.

Clause 102 was added to the Bill.

Clause 103 was added to the Bill.

Clause 104 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 105 stand part of the Bill.”

Mr. Sri Prakasa : Sir, I move :

“ That in clause 105 of the Bill, in the proviso to sub-section (1) of the proposed section 244A, for the word ‘ registrar’, occurring in the tenth line, the word ‘ Court’ be substituted.”

Sir, the Honourable Member opposite knows more of the merits of the case, and the necessity for this amendment than
4 P.M. I can do ; so I only just move it.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 105 of the Bill, in the proviso to sub-section (1) of the proposed section 244A, for the word ‘ registrar’, occurring in the tenth line, the word ‘ Court’ be substituted.”

Mr. Susil Chandra Sen : Sir, this is only an omission in drafting and we accept it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 105 of the Bill, in the proviso to sub-section (1) of the proposed section 244A, for the word ‘ registrar’, occurring in the tenth line, the word ‘ Court’ be substituted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 105, as amended, stand part of the Bill.”

The motion was adopted.

Clause 105, as amended, was added to the Bill.

Clause 106 was added to the Bill.

Clause 107 was added to the Bill.

Clause 108 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 109 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal : Sir, I move :

“ That for sub-clause (a) of clause 109 of the Bill, the following be substituted :

‘ (a) for sub-section (3) and the proviso thereto the following shall be substituted, namely :

‘ (3) Every company to which this section applies shall in every calendar year make out a balance sheet in such form, and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and deliver for registration a copy of that balance

[Pandit Sri Krishna Dutta Paliwal.]

sheet to the registrar of the province in which the company has its principal place of business ; and if any such sheet is not written in the English language, the company shall annex to it a certified translation thereof '."

Sir, the object of this amendment is a very simple one. It is this. The companies carrying on their business in India but incorporated outside India should be placed on the same footing in India as the Indian companies incorporated in this country and carrying on their business in other countries are placed. The English Act requires that the Indian companies should comply with the provisions of that Act so far as the balance-sheet is concerned and there is no reason why we should allow the British companies established in England not to comply with the provisions of our Act so far as this is concerned. I do not see any justification why the Britishers should have the best of everything in the world and why we, the Indians, should be put to a loss. I know what my friend Mr. James of the European Group will charge me with consuming hatred, because I have moved this amendment. So far as I am concerned, I plead guilty to the charge inasmuch as I do not possess the same profitable and productive love to the ruling race as my friend, Mr. James, has. This amendment of mine has neither been taken from Honolulu nor from Timbaktu the two favourite haunts of the Honourable the Law Member. It has been taken bodily, comma for comma and word for word, from Mr. Sen's original proposal and Government's own Bill. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

" That for sub-clause (a) of clause 109 of the Bill, the following be substituted :

' (a) for sub-section (3) and the proviso thereto the following shall be substituted, namely :

' (3) Every company to which this section applies shall in every calendar year make out a balance sheet in such form, and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and deliver for registration a copy of that balance sheet to the registrar of the province in which the company has its principal place of business ; and if any such sheet is not written in the English language, the company shall annex to it a certified translation thereof '."

Seth Govind Das (Central Provinces Hindi Divisions : Non-Muham-madan) : There is an amendment on the same subject, that is amendment No. 224 in my name. My amendment is rather better than the present one.

Mr. President (The Honourable Sir Abdur Rahim) : Then the Honourable Member can vote against the present amendment.

Seth Govind Das : That is not the point. I want to know whether, if this amendment is carried, I will be allowed to move amendment No. 224.

Mr. President (The Honourable Sir Abdur Rahim) : Provided it is not inconsistent with the present amendment, if carried.

The Honourable Sir Nripendra Sircar : They are not inconsistent. You can still move it.

Seth Govind Das : All right.

The Honourable Sir Nripendra Sircar : Sir, I do not think my Honourable friend will be well advised in pressing this amendment for this reason. What has happened is possibly known to Honourable Members of this House. The form which has been adopted in section 109 really means this. That that is the form, or rather that is what the foreign companies have got to comply with in England. It is quite right to say that there is no exact reciprocity because a foreign company is not filing its balance sheet in the form which an Indian company has got to file its in India. To that extent, the criticism is right that there is no exact reciprocity. On the other hand an Indian company—I think there is only one company, the Central Bank—trading in England will file its balance sheet in the form in which an English company will have to file its here under clause 109. But why I am advising my Honourable friend not to press this amendment is that he will not gain his object which he has in his mind if he carries this amendment. May I draw the attention of the House to section 151 of the existing Act. It says :

“ The forms in the Third Schedule or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer. The Governor General in Council may alter any of the tables and forms in the First Schedule so that he does not increase the amount of fees payable to the Registrar in the said schedule mentioned, and may alter or add to the forms in the Third Schedule.”

Now, the position was this. Under the existing Act, foreign companies were dealt with by section 277. There was no question of any form applying to foreign companies. The scheme was this, that there was a proviso that the Governor General could exempt companies from complying with the requirements laid down in section 277. The difference is this. Inasmuch as under the old scheme there was no form to be filled up or complied with, all that the Governor General could do under the proviso, was in certain cases to say that it is impossible for this foreign company and it need not carry it out the requirements of section 277. That was a very limited power. As a matter of fact when the matter was before the Select Committee we found that out of 900 odd foreign companies trading here in India, exemption was given only in the case of about 12 companies. I then read out the names and I was informed by my Honourable friend, Mr. Satyamurti, that three out of that list were really charitable companies doing business in South India. So we had really eight or ten cases which were exempted by the power which is given to the Governor General in Council under section 277. Let us see what will happen if the amendment of my Honourable friend is carried. Then the foreign company will have to file in the same form as the Indian company, that is Form F. That is in Third Schedule. Therefore by reason of section 151 which my Honourable friend ought to have amended and which he has not done, and the time is passed, otherwise probably I would not have been so frank as I am now, I say that by reason of the existence of section 151 in this Bill, the Governor General has the power to do, what ? He will have the power “ to alter any of the tables and forms in the Third and First Schedules so that he does not increase the amount of fees payable to the Registrar in the said Schedule and may alter or add ”, I draw the attention of the House to this portion which is the vital

[Sir Nripendra Sircar.]

portion, "and may alter or add to the forms in the Third Schedule". This is going into the Third Schedule because my Honourable friend wants that they should be in the same form as the Indian company will have to file, that is Form F which is in the Third Schedule. If this is carried, the power will be given to the Governor General in Council (that will equally apply to Form H) to alter or add to the forms so that, that could be done. I can give you one instance—I forget the year, it was in 1926 or 1927—representations were made by banks that there were certain difficulties in complying with the amended requirements of the Forms and upon that under this power in case of banks the form was relaxed to a certain extent. Now, it is not even necessary in altering the form to say that a foreign company need not do this and that and so on. Supposing the form is altered in this way that a company carrying on business in more than one country is given certain relaxations. The result will be probably the same, if not exactly as that under clause 109. What I am pointing out is this. Is this really worth fighting for because as is clear it is not reasonably possible for some of the companies to comply with the strict form. Representations were made, for instance, that the Lloyds Bank have got to give an account of all their directors and all their branches—I believe there are over 2,000 branches or something like that—they have to give an account of all the transactions in which they are interested and the moneys received and so on. It will be a small volume which is of no earthly use to the Indian public here. Similarly representations were made by the American Banks—the City Bank and the Standard Oil Company. These companies have more than 3,000 branches with innumerable directors and innumerable transactions, fees and loans received and so on. It is really, I cannot say impossible, but it is a difficult task and it is almost impossible in case of American companies because they have to keep their forms under their own statutes in a particular form and so on. I do not want to tire the House by going into all those details. What I point out is this that as a matter of fact in connection with some of the companies we are honestly convinced that it will be very difficult to comply with the requirements of Form F. That is really not of much good to us, possibly the argument may be advanced that we do not care what their inconvenience may be or it may be impossible for them, but they must comply with them. But I am convinced that it will be no good to us ; at best it is almost an impossible burden on these companies and after all as I point out even if my Honourable friend's amendment is carried, power is left to the Governor General in Council to alter or add to the forms and I would therefore ask my Honourable friend to consider, is it really worth while pressing for these forms and not be satisfied with clause 109 as it stands at present.

Mr. Bhulabhai J. Desai : Sir, will my Honourable friend be prepared to accept if the words 'in such form' were omitted from this amendment ? I say this for this reason. In section 132, there are two parts. The first part is :

"The balance sheet shall contain a summary of the property and assets and of the capital and liabilities of the company giving such particulars as will disclose the general nature of those liabilities and assets and how the value of the fixed assets has been arrived at."

The second part of this section says :

“ The balance sheet shall be in the form marked —F in the Third Schedule or as near thereto as circumstances admit.”

I am reading this section in order to show that it is really this which is incorporated by way of reference into these requirements. If you will see sub-section (1) of section 132, I submit that we shall be content with the compliance of one of the requirements. The compliance required in sub-section (2) may be omitted. I think even the Honourable the Law Member would be able to comply with our request.

The Honourable Sir Nripendra Sircar : Sir, I am obliged to my Honourable friend for pointing this out but I am afraid I cannot give an answer without further consideration. If it stands over till tomorrow I have no objection.

Mr. Bhulabhai J. Desai : I will say this. The position was brought to me not as legal adviser but otherwise. So I am in a position to state that even in the case of banks like the National City Bank of New York, all that they say is that the form in which their accounts are kept and audited is such that the actual headings under which they appear as required by Form F do not exist in their company forms. But none the less they admit, and must admit, that clause (1) must be the one which is applicable to every decent concern, namely, that it shall contain a summary of the property and assets and of the capital (that cannot be disputed), and of the liabilities of the company (that also cannot be disputed), giving such particulars as will disclose the general nature of its liabilities and assets. Some people show bills and loans together, some people show loans alone, some people show bills negotiated by local banks as distinguished from foreign banks and so on ; so that to the extent to which the forms require particulars, it can be dispensed with.

The Honourable Sir Nripendra Sircar : Sir, I will gladly agree to the matter being postponed till tomorrow so that I can have a little time to consider this, but may I know exactly what words are to be struck out from this amendment ?

Mr. Bhulabhai J. Desai : I suggest that the words “ in such form ” may go out, and I suggest further, though it is a matter of no doubt to me, that we may substitute these words, “ containing such particulars and including such documents as are required under section 132 (1) ”.

The Honourable Sir Nripendra Sircar : Then will it read like this ?

“ Every company to which this section applies shall in every calendar year make out a balance-sheet containing such particulars and including such documents as are required under section 132 (1).”

Does section 132 (1) require any documents ?

Mr. Bhulabhai J. Desai : No, it requires particulars.

The Honourable Sir Nripendra Sircar : If the words “ including such documents ” go out, then I can understand. Will it be possible for my Honourable friend to send me a copy of the amendment and also a copy to the Leaders of the other Groups by 7 or 8 o'clock today ?

Mr. Bhulabhai J. Desai : Yes, I will do that. For the moment I cannot put my hand on what documents are required. Otherwise, as to the form I am quite content that that should go out.

Mr. President (The Honourable Sir Abdur Rahim) : This will stand over till tomorrow.

Pandit Sri Krishna Dutta Paliwal : Sir, I move :

“ That in sub-clause (b) of clause 109 of the Bill, for the figures, word and brackets ‘ (6), (7) and (8) ’ the figures, word and brackets ‘ (7), (8) and (9) ’ be substituted and after the proposed sub-section (5) the following new sub-section be inserted :

‘ (6) Every company to which this section applies shall have its principal place of business in India, shall keep proper books of account in relation to its business in India and shall have at least one director elected by shareholders in this country from amongst themselves ’.”

I think the amendment speaks for itself and requires no speech in support. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (b) of clause 109 of the Bill, for the figures, word and brackets ‘ (6), (7) and (8) ’ the figures, word and brackets ‘ (7), (8) and (9) ’ be substituted and after the proposed sub-section (5) the following new sub-section be inserted :

‘ (6) Every company to which this section applies shall have its principal place of business in India, shall keep proper books of account in relation to its business in India and shall have at least one director elected by shareholders in this country from amongst themselves ’.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. We cannot recognise this distinction between shareholders in one country and in another. Shareholders have got to act together according to the provisions of the company law. It is proposed that at least one director will be elected by the shareholders in this country. What happens if there is no shareholder in this country ? If this distinction is to be made that the shareholders in this country will have one director, and the shareholders in France will have another director and the shareholders in England another director and so on, why not spread it and subdivide it and later on say that province by province each will have one director ? I oppose this idea altogether that this distinction should be made between the general body of shareholders.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (b) of clause 109 of the Bill, for the figures, word and brackets ‘ (6), (7) and (8) ’ the figures, word and brackets ‘ (7), (8) and (9) ’ be substituted and after the proposed sub-section (5) the following new sub-section be inserted :

‘ (6) Every company to which this section applies shall have its principal place of business in India, shall keep proper books of account in relation to its business in India and shall have at least one director elected by shareholders in this country from amongst themselves ’.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 110 stand part of the Bill.”

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 110 of the Bill, after the proposed section 277B, the following new section be inserted :

‘ 277BB. (1) It shall not be lawful for any person to go from house to house offering shares of a company incorporated outside India for subscription or purchase to the public or any member of the public.

(2) In this sub-section the expression ‘ house ’ shall not include an office used for business purposes ’.”

Mr. F. E. James (Madras : European) : May I rise to a point of order before my Honourable friend continues ? Without going into the merits of this or the following amendments, I would like to draw your attention to the fact that we only had these amendments circulated last night and we have not therefore had the requisite notice which is usual under standing order 46 : we have objected on previous occasions to amendments being made without the necessary notice being given and I should like your ruling on this amendment and the subsequent ones.

Pandit Govind Ballabh Pant : Sir, in the ordinary course these amendments would have been reached any day but today—tomorrow or perhaps the day after even. In fact when this arrangement was made.....

Mr. President (The Honourable Sir Abdur Rahim) : But the announcement was made by the Leader of the House yesterday.

Pandit Govind Ballabh Pant : Yes, and I approached the Leader of the House and told him I had given notice of certain amendments and this difficulty might arise, and he said he would not raise such objection. That is why we agreed to this arrangement.

Mr. President (The Honourable Sir Abdur Rahim) : If that is so, and if it is a controversial amendment, then I am prepared to let it stand over till tomorrow.

Pandit Govind Ballabh Pant : We are trying to facilitate and expedite business.

Mr. F. E. James : If it is a fact, that the Leader of the House had agreed in the circumstances not to raise any objection, I will withdraw the objection I made.

Pandit Govind Ballabh Pant : Sir, it is a bit ungracious and I am really sorry that an Honourable Member of the position of Mr. James should have made himself responsible for this objection. For, after all, we are all here.....

Mr. F. E. James : I withdrew my objection : I would have been quite within my rights if I had stood on my objection, and I take it very hardly of my friend to make those remarks, after I had withdrawn my objection as I have done.

Pandit Govind Ballabh Pant : I thank the Honourable Member for having withdrawn his objection on getting an assurance from the Honourable the Leader that he had given me such an understanding....

The Honourable Sir Nripendra Sircar : It is really my fault : I had not informed the other Parties.

Pandit Govind Ballabh Pant : There the chapter closes. Coming to the subject matter of this amendment, I propose that the hawking of shares of foreign companies should be prohibited in this country. I may inform Honourable Members that the amendment that I am proposing has been taken bodily from the English Act. If they will refer to section 356 (1) of that Act, they will find the words :

“ It shall not be lawful for any person to go from house to house offering shares for subscription or purchase to the public or any member of the public.

In this sub-section the expression ‘ house ’ shall not include an office used for business purposes.”

In fact, in England the prohibition is much more wide and comprehensive as it covers all shares, whether pertaining to domestic companies or to foreign companies. I am of the opinion that capital is shy in our country, and so I would not like to place impediments in the way of people trying to promote indigenous enterprise by any provision of this type. As I want our capital to be utilised for the purposes of indigenous business, therefore also I do not want to facilitate the raising of foreign capital in this country. So I have restricted my amendment only to the shares of companies incorporated abroad. I see no reason why this amendment should not be accepted. Sir, if you will refer to Mr. Sen’s report, you will find there these words :

“ A considerable amount of business is being carried on in this country of late in shares, bonds, etc., of foreign companies. Glowing accounts are usually given by the canvassers and agents employed by those companies of the profits likely to be made by investing moneys in such commodities. The unwary investors not acquainted with the details of the foreign corporation are very often trapped and in some cases lose all the money which they invest in the purchase of these bonds and shares. The lack of any control over these companies and their activities has been pointed out by the public and demands have been made for protective provisions in the statute. The activities of one of these companies were recently investigated by the Bombay High Court in connection with a libel case instituted by the New Zealand Redwood Forests, Ltd., and was characterised in the judgment as scandalous. The Government of the United Provinces of Agra and Oudh have also drawn the attention of the Government of India to this class of business and have asked for legislative interference.”

Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 110 of the Bill, after the proposed section 277B, the following new section be inserted :

‘ 277BB. (1) It shall not be lawful for any person to go from house to house offering shares of a company incorporated outside India for subscription or purchase to the public or any member of the public.

(2) In this sub-section the expression ‘ house ’ shall not include an office used for business purposes ’.”

The Honourable Sir Nripendra Sircar : Sir, I accept this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 110 of the Bill, after the proposed section 277B, the following new section be inserted :

‘ 277BB. (1) It shall not be lawful for any person to go from house to house offering shares of a company incorporated outside India for subscription or purchase to the public or any member of the public.

(2) In this sub-section the expression ‘ house ’ shall not include an office used for business purposes ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 110, as amended, stand part of the Bill.”

The motion was adopted.

Clause 110, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 111 stand part of the Bill.”

Mr. N. C. Muthuranga Mudaliar (South Arcot *cum* Chingleput : Non-Muhammadan Rural) : Sir, I move :

“ That clause 111 of the Bill be omitted.”

In this I am fortified by the opinion of the Central Banking Enquiry Committee as they have come to the unanimous conclusion that a comprehensive banking Act should be enacted and placed on the Statute-book. They no doubt suggest two ways, a separate banking Act or the amendment of the Companies Act ; but they prefer the first course. It is now more than five years since the Central Banking Enquiry Committee submitted their report and the Government should long ago have enacted a comprehensive banking Act ; but they have not cared to do so and now they want to incorporate a separate clause in the Companies Act. The 1913 Companies Act does not contain such a clause on banking, and I do not know if the English Act which this amending Bill so closely follows has such a section on banking. The Deputy Governor of the Reserve Bank also is of the opinion that a separate Act would be preferable to introducing a clause in the Companies Act. Let me read to the House what he says in regard to the proposed section 277E :

“ We agree that legislation is desirable to effect a clear separation between banking and other companies and mitigate the risk of the public paying deposits to a company calling itself a Bank but really carrying on a different kind of business altogether. We are, however, doubtful whether the provisions of the Bill as drafted will satisfactorily meet the object in view.”

Not only to section 277E but also to every other subsequent section the Deputy Governor of the Reserve Bank has raised objection. Even the informal Committee which considered the draft of this Bill was of the opinion that the proposed addition of section 277E was unnecessary and should not be made. Among other opinions the opinion received from the Indian Society of Accountants and Auditors runs thus. Paper No. 6. They say :

“ My Committee are of opinion that as recommended by the Central Banking Enquiry Committee it is necessary that there should be one comprehensive banking Act on the statute book for regulating banks and banking institutions in India.”

On these grounds I appeal to the House to throw out this clause so that Government may be compelled to bring in a comprehensive banking Act. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That clause 111 of the Bill be omitted.”

The Honourable Sir Nripendra Sircar : I oppose the amendment. Possibly a comprehensive banking Act would be more satisfactory, but that is no reason why some of the evils which have been complained of or which general public opinion shows are likely to be stopped by the provisions which have been introduced in section 277E—why the whole of that should be dropped simply because by waiting for a few years probably a more comprehensive Act can be formulated. I oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 111 of the Bill be omitted.”

The motion was negatived.

Mr. C. N. Muthuranga Mudaliar : Sir, I move :

“ That in clause 111 of the Bill, for the proposed section 277E, the following be substituted :

‘ 277E. A Banking Company means ‘ a company which carries on banking business and uses as part of its name the word Bank, banker or banking ’.”

In the case of this amendment also I rely upon the various opinions received by the Government on the Bill. I chiefly rely upon the opinion of the Deputy Governor of the Reserve Bank. He says :

“ In this Bill the attempt to define the permissible duties and limitations of banks by statute has been made for the first time in this country. The difficulty of framing a comprehensive and practical definition has been emphasized by every authority which has examined the subject both here and in other countries, *e.g.*, the Hilton-Young Commission, the Banking Enquiry Committee in this country and the MacMillan Committee in the United Kingdom. We recognize that the draft has been framed as comprehensively as possible but even so there is a danger that it may hamper legitimate present activities and impede further developments. For these reasons, we are of opinion that the attempt to frame a comprehensive definition should be abandoned and that a banking company should be described as a company which carries on the business of banking.”

Sir, I move :

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, for the proposed section 277E, the following be substituted :

‘ 277E. A Banking Company means ‘ a company which carries on banking business and uses as part of its name the word Bank, banker or banking ’.”

Mr. B. Das (Orissa Division : Non-Muhammadan) : I think the Finance Member ought to have been here to reply to the points raised by my Honourable friend, Mr. Mudaliar, which deal with the opinion of the Deputy Governor of the Reserve Bank.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable the Law Member is in charge of the Bill.

Mr. B. Das : Yes. I know that. The Honourable the Law Member is sympathetic but this deals with a bigger issue and we want to know the opinion of the Finance Member.

The Honourable Sir Nripendra Sircar : I can give more information to the House about the Deputy Governor of the Reserve Bank than probably my Honourable Colleague, because after getting his opinion he was consulted repeatedly and I had repeated correspondence with him. I can assure my Honourable friend that this definition, as now framed, is with his help, in spite of his previous opposition. But,

Sir, my point is this. My Honourable friend's view is,—I know that is a view which is supported by a considerable section of the European merchants, and I am getting letters from them even now—"Don't define banking. Say banking is banking." But the trouble is this. We must make an attempt to define—I admit that it is extremely difficult to define, and I also admit that some other people have not tried to define, as our position is this. Supposing one of the provisions is broken, then what happens? The case has got to be tried. The manager of the bank or the directors are put up before a Court. "You suffer this penalty because you are a banking company and you have done something which you ought not to have done." What is the Court going to do? Is every Subordinate Judge or District Judge trying a case to call for experts to find out what is a banking business? I submit, if you drop the whole of this chapter, that is quite a different matter, but as that has not been done, as my Honourable friend's amendment has not been carried, surely without some definition of banking we cannot possibly go on. What help will the Court get from this Act when the question arises whether a certain company is a banking company or not? I understand, the situation is a difficult one—the matter of defining—and I want the assistance of the House to improve that definition if that is possible. I can tell the House what steps were taken to have this definition, because I always realised that it was not easy to define banking. We had, first of all, opinions and correspondence and so on. Then Sir William Lamond of the Imperial Bank was specially brought on the informal Committee. This definition took him several days and it was thoroughly discussed before the informal Committee. After the Bill had been introduced we were at it for days and when the Select Committee met—I am not divulging any proceedings of the Select Committee—the matter stood over and we were given time to consult further the Deputy Governor of the Reserve Bank and some of the leading bankers in Bombay. We waited and we got their suggestions. With the help of those suggestions which came from Calcutta and Bombay we slightly changed our definition. We have tried to make the definition as comprehensive as possible, and because we feel that we have exhausted all efforts in coming to a satisfactory definition, if Honourable Members will point out how the definition can be improved, I shall indeed be grateful, but I object to this idea that we should have no definition at all and it should mean this, bank is a company which carries on banking business. That is my Honourable friend's amendment.

Mr. M. A. Jinnah : It says here, "part of its name".

The Honourable Sir Nripendra Sircar : Part of the definition is, a company which carries on banking business. How am I to ascertain what is banking business? I oppose the amendment and I hope my friend will help me when we come to the definition clause.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 111 of the Bill, for the proposed section 277E, the following be substituted :

"277E. A Banking Company means 'a company which carries on banking business and uses as part of its name the word Bank, banker or banking'."

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 111 of the Bill, in the proposed section 277E, after the words ‘ Banking Company ’ the words ‘ or Bank ’ be inserted.”

The object is this. Banking company is defined in clause 277E. In 277F the words “ bank, banker and banking ” are used. 277F says :

“ No company formed after the commencement of the Indian Companies (Amendment) Act, 1936, for the purpose of carrying on business as a banking company or which uses as part of the name under which it proposes to carry on business the word ‘ bank ’, ‘ banker ’ or ‘ banking ’ shall be registered under this Act, unless the memorandum limits the objects of the company to the carrying on of some or all of the forms of business specified in section 277E.”

Now, under this section 277F it can still be a bank without carrying on the main object of the business as set out in the preamble to section 277E. It can still be a bank without doing its business. The definition of the bank is restricted under section 277F to some or other of the objects set out in 277E. I would, therefore in order to avoid confusion introduce, the word “ bank ” after the words “ banking company ”.

The Honourable Sir Nripendra Sircar : A bank may be owned by an individual or a partnership firm.

Mr. M. Ananthasayanam Ayyangar : Unless more than 10 persons join together it does not come under the operation of this Act at all. If the word “ bank ” is not used, the special restrictions sought to be imposed upon a banking company as are mentioned in 277F would not apply to the bank. The object of my amendment is, to make the object of the section clear. In 277E, banking company alone is defined and in 277F some restrictions are sought to be imposed. Banking business need not necessarily be one of the objects of the bank if we take section 277F alone. I say my amendment is necessary if we are not to frustrate the object of the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, in the proposed section 277E, after the words ‘ Banking Company ’ the words ‘ or Bank ’ be inserted.”

Mr. Bhulabhai J. Desai : The difficulty arises under 277F and it can be easily avoided. The material words in 277F are :

“ Unless the memorandum limits the objects of the company to the carrying on of some or all of the forms of business specified in section 277E....”

What is really meant there is it limits the objects of the company to the carrying on of the banking business as defined in the main section along with some or more of the others. If that is done, I think the difficulty would be removed. The suggestion I make is that this might be withdrawn now but that it might be taken up when we come to 277F. This amendment is in the wrong place.

Mr. M. Ananthasayanam Ayyangar : I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Pandit Govind Ballabh Pant : Sir, I beg to move :

“ That in clause 111 of the Bill, in the proposed section 277E, for the words ‘ as

If Honourable Members will read the introductory clause or the body of the text of 277E, they will find these words :

“ A ‘ banking company ’ means a company which carries on as its principal business the accepting of deposits of money on current account or otherwise ”, and so on.

In place of these words, if my amendment is accepted, the form will be like this :

“ A ‘ banking company ’ means a company which carries on the business of the accepting of deposits of money on current account or otherwise.”

Sir, the object of my amendment must have, I think, already struck the Honourable Members of this House and is plain enough. According to this definition given in 277E, the accepting of deposits of money on current account or otherwise subject to withdrawal by cheque, draft or order must be the principal business. I say that instead of making it the principal business, we should say that it should be the business of the company.

Sir H. P. Mody : That means the one and only business of the company ?

Pandit Govind Ballabh Pant : No, no. A ‘ banking company ’ means a company which carries on the business of the accepting of deposits of money on current account or otherwise subject to withdrawal by cheque, draft or order, notwithstanding that it engages, in addition, in any one or more of the following forms of business. All these forms of business remain there, but the essential characteristic of a bank, *viz.*, the accepting of deposits of money on current account or otherwise subject to withdrawal by cheque, draft or order must be included in the business of the company. The reason why I move this amendment is the likelihood of complications and controversies arising from this word “ principal ”, thus, as to what is the “ principal business ”, at which stage a business can be called “ the principal business ”, at what stage is it to be regarded as subsidiary and not “ principal ” and so on ? If the question comes before the Courts, then it may lead to any amount of difficulty ; so I want to omit this word “ principal ”, but it does not affect the essential characteristic of the bank, for no company will be regarded as a banking company unless it carries on the business of accepting deposits of money on current account or otherwise subject to withdrawal by cheque, draft or order. If you retain the word “ principal ”, then it may cause difficulties and I am sure it will foment litigation ; and whenever a company will be sought to be dealt with under the provisions of this chapter, then it will seek shelter oftener than one can imagine now, under the pretext that it is not their principal business. It may be doing one hundred and one other things and yet this may be the main part of its business ; but howsoever important a place this banking business may play in the activities of that banking company, still it may put forward the plea that this is not its principal business. So, for the words “ as its principal business the ” I suggest that the words “ the business of ” be substituted. I may state that the only reason that has prompted me is to simplify the definition and to obviate to the extent that is possible the chances of the provisions being circumvented under one pretext or other.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, in the proposed section 277E, for the words ‘ as its principal business the ’ the words ‘ the business of ’ be substituted.”

The Honourable Sir Nripendra Sircar : Sir, I quite appreciate my Honourable friend's motive but I would ask the House to realize what will happen. Every jute mill in Bengal will become a banking company, because, if my friend will inquire, he will find that their servants and their assistants deposit monies with the company on current account and otherwise and these are in some cases withdrawable by cheque,—but the words here are “ cheque, draft or order ”. So, therefore, every jute mill company will be, although really banking is not their real business, a banking company. Take any firm like Messrs. Martin and Co. I know their servants have their accounts with them, they keep their money in deposit with their masters, they draw it whenever they like, and as a matter of fact the bigger companies have cheque forms also. For instance, Messrs. Andrew Yule and Co. probably have their cheque forms. Sir, the result will be—although I quite appreciate my Honourable friend's motive, if once we do what he suggests then practically we shall rope in hundreds of companies who really and honestly cannot be called banking companies.

Pandit Govind Ballabh Pant : But can cheques be drawn on these accounts by persons who are not connected with them as their servants ? Are they negotiable instruments ?

The Honourable Sir Nripendra Sircar : That does not matter ; of course every cheque is a negotiable instrument if it is made to order, but that does not touch the point at all. Here I am a servant of Messrs. Martin and Co. and I have left certain monies with them either as deposits or on current account. I draw these by cheque, but that question is rather not important because the language is “ by cheque, draft or order ”. If I send a letter to Messrs. Martin and Co. like this, “ will you kindly make over Rs. 100 out of my deposit to so and so ”, that will be drawn by order, so that all these companies will be hit. Surely, that is not the object of this legislation,—viz., to rope in companies who cannot be described as banking companies.

Pandit Govind Ballabh Pant : That is not my object.

The Honourable Sir Nripendra Sircar : I am putting it before you that although that is not the object, that will be the result. Now as regards my friend's other point, I quite admit that in a doubtful case evidence has to be led, if it comes to that, as to whether this was the principal business or not, but, surely, whether such a business is principal or not is a question of fact, the Courts are deciding every day whether a particular place is the principal place of business of a company, and they are deciding what is the principal business, and the words “ principal business ” have been used in so many English statutes and there are hundreds of decisions, so that it all boils down to this that it is a question of fact. But such questions will be rare,—and it cannot be helped, if such a question arises ; the Courts have got to take the trouble of finding out what is the principal business.

After all, it is not for the man who is going to be penalized to prove that he has come within the operation of this section ; the other side who wants to get him punished has to prove, and the onus is on him to show that this was his principal business. I submit, Sir, that balancing the considerations on either side, it will lead to consequences which we cannot possibly contemplate with equanimity if all companies like the Jute Mill companies, the Coal companies and other companies who keep moneys of their servants and so on are going to be treated as banking companies. I oppose it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, in the proposed section 277E, for the words ‘ as its principal business the ’ the words ‘ the business of ’ be substituted.”

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar : Sir, some modification has got to be made to section 277F.

The Honourable Sir Nripendra Sircar : When in doubt, do not move.

Mr. M. Ananthasayanam Ayyangar : There is no doubt that I shall move it. But in place of amendment No. 16, I move that :

“ In sub-section (1) of section 277F, after the words ‘ unless the memorandum limits the objects of the company to the carrying on....’ ”

The Honourable Sir Nripendra Sircar : There is no such amendment.

Mr. President (The Honourable Sir Abdur Rahim) : There is no amendment like that.

Mr. M. Ananthasayanam Ayyangar : Sir, I cannot move my amendment No. 16 as it is. When I moved my previous amendment to section 277E, the Honourable the Leader of the House said that it could be moved after section 277F was disposed of. I now propose to move some consequential amendments if the Honourable the Law Member will accept them.

The Honourable Sir Nripendra Sircar : My trouble is that I cannot be rushed like this. The banking sections are an important matter and I must have a little time to realise what is happening and what I am agreeing to or what I am opposing.

Mr. M. Ananthasayanam Ayyangar : Then I suggest that it may stand over till tomorrow.

Mr. President (The Honourable Sir Abdur Rahim) : You had better put in another amendment tomorrow.

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 111 of the Bill, the proviso to sub-section (2) of the proposed section 277F be omitted.”

Honourable Members will see that the proviso runs thus :

“ Provided that the Governor General in Council may, by notification in the Gazette of India, specify in addition to the businesses set forth in clauses (1) to (17) of section 277E other forms of business which it may be lawful under this section for a banking company to engage in.”

[Pandit Govind Ballabh Pant.]

Sir, I attach great importance to this amendment. This banking section has been introduced after a great deal of care and investigation by the Honourable the Law Member. If Honourable Members will be pleased to read these sub-clauses 1 to 17 of section 277-E., they will notice that every conceivable sort of business that could possibly be brought within the purview of a bank's business has been included in this section 277-E. Now, we are framing a statute and there are important consequences likely to ensue from the step that we are taking. If there is a breach of any of these provisions embodied in section 277-E, then a man may be exposed to very serious penalties. The consequences are of a very far-reaching character, but when we incorporate this proviso, then, instead of legislating, we are delegating the functions to an executive authority about matters which entail serious consequences, penalties and civic rights. I am entirely opposed to such a principle. When we frame a law, in case there is any occasion for any change in that law, then an amending statute should be brought before the Legislature. I do not see, in spite of great respect for this House, that the final word in banking legislation is embodied in section 277-E. I conceive and concede the possibility of changes being required in section 277-E as in other parts of this Act. In the circumstances, the same argument could perhaps be advanced, though not always with the same degree of emphasis, about the Governor General being equipped with power to make changes even in the rest of the Act if a necessity arose for it. In case there is any flaw noticed in this clause at any time, there need not be any serious difficulty in the way of the Government proposing an amendment of this Act and bringing forward an amending Bill. The Governor General has so far possessed the power of making Ordinances. In fact, the power of making Ordinances for everything has been enlarged by the new Charter of liberty that we are getting through the Government of India Act of 1935. If it is necessary to make any alteration in this part or any other part of this Bill when it becomes an Act, if the Governor General so chooses, he can ordain to that effect.

Mr. M. S. Aney : The power of making Ordinances is given to the Governor General and not to the Governor General in Council.

Pandit Govind Ballabh Pant : But here I think the Governor General in Council is on his last legs. He is tottering. Just see the faces over there. Some of them seem to be growing prematurely old and others are growing buoyant in the hope that they will get rid of the halter round their neck soon. Whatever it may be, the fact remains that the Governor General in Council is tottering today and he is in a state of decay in more ways than one. We have experience of that every day, every morning. Leaving that alone, the Governor General in Council in reality, if not in name, I think, will advise the Governor General to issue Ordinances. But the Governor General will be a freer agent than he is today as his inner Council will then consist of only white faces with no brown ones. The Governor General will then have portfolios in his charge such as Defence, Ecclesiastical affairs and so on. There are only three Europeans in the Governor General's Council today. I am digressing, perhaps making remarks which are not quite relevant, I am not primarily responsible for that, I was drawn into it—

coming to the subject of this amendment, the position is this, that the transfer of such statutory powers which only the Legislature should possess is vicious in principle and is likely to lead to disastrous consequences. We have always opposed this conferment of the power of issuing Ordinances which the Governor General possesses, but it is there, whether we will it or not as there are so many, ninety-nine out of 100 provisions in this Act. But when he has that power of issuing Ordinances, I do not see any reason for this clause. The difference is this. The Ordinances will not remain in force for more than six months and it will then be necessary to modify it by means of an amending Bill and unless the Legislature approves of it, it will not remain in force.

Sir H. P. Mody : Can the Governor General issue Ordinances in respect of these matters ?

Pandit Govind Ballabh Pant : He can issue about everything.

Sir H. P. Mody : No.

Pandit Govind Ballabh Pant : There are two parts of that : one relates to peace and tranquillity and these things. That he can do in his discretion and individual judgment. The other is about matters which come within the purview of the so-called ministerial field. About that he can issue Ordinances with the advice of his Ministers when the House is not sitting : but in either case, he can issue Ordinances. There is no doubt about that. That is my impression of the Government of India Act and I hope I am not mistaken. Therefore if an emergency actually arises the way of meeting it has already been provided for as it has been for all other possible and conceivable emergencies—but I am again being drawn away. In the circumstances, I propose that this proviso should be omitted. It is fatal to the principle of Legislature alone having legislative and statutory authority. I hope this House will throw out this proviso.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, the proviso to sub-section (2) of the proposed section 277F be omitted.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. I agree that it is not the right principle to allow executive orders to take the place of legislation. We know that a whole book has been written on it by Lord Hewart and I want the House to realise—if I may use the expression which one of my Honourable friends used towards me this morning—whether all this heavy cannon is necessary for killing a fly. The position is this : we have tried to make the definition of banking as comprehensive as possible. In spite of that, we are receiving criticisms which were voiced by an Honourable friend only 15 minutes ago that it is a dangerous task to try to be comprehensive and true, we cannot tell you just now what it is you have omitted but it is difficult to believe that you have omitted something. Therefore, the provision of the scheme is this : we have tried with the help of banking experts to be as exhaustive as possible. We have put in from one to seventeen sub-clauses and our hope and belief is that nothing has escaped our attention, the net has been cast wide. But in case something has escaped, this power is given to the Governor General to come

[Sir Nripendra Sircar.]

to the rescue. I ask Honourable Members to speculate in their minds how often can such a question arise. This question can arise only if business can be legitimately carried on by a bank which is not roped in by one of these one to seventeen comprehensive sub-clauses. We are putting in this proviso for that contingency, and it will be on very very rare occasions that it will arise. May I point out to the House that this strenuous fight against giving the Governor General a power which probably will not be exercised at all or if exercised on very rare occasion or occasions, all this strenuous fight is going on for this. But none of my Honourable friends, as I said only half an hour ago, have tried to amend section 151. Under section 151 of the existing Act, the Governor General in Council can alter and change the forms. That power is to be entrusted under this particular Act. My Honourable friend will probably say that one wrong does not justify another, but I am pointing out that there is no attempt to take away the very extensive powers which are given to the Governor General in Council. This, Sir, may be a question of principle, but in practice, I submit really no objection ought to be made having regard to the fact that we have tried to make our definition as exhaustive as possible. My Honourable friend, Pandit Govind Ballabh Pant, having once mentioned the new Government of India Act naturally was led away into various other matters which probably have nothing to do with banking. I may correctly say that he was right in saying that this present Council of the Governor General is tottering, but we are hoping that the vigorous legs of my Honourable friends, Pandit Govind Ballabh Pant and Mr. Satyamurti, will replace these weaklings there.....

Pandit Govind Ballabh Pant : No apprehensions like that so far as I am concerned.

The Honourable Sir Nripendra Sircar : Not any apprehensions, no. I shall be delighted, and I do not call it apprehension. I may point out that the Governor General in Council under the new Government of India Act does not mean Advisers in Defence or Finance Departments.

Pandit Govind Ballabh Pant : I never meant to suggest that.

The Honourable Sir Nripendra Sircar : Then, I will not go into that. Sir, I oppose the amendment.

Mr. M. S. Aney : This is really an amendment which is one of principle. The point is not whether there will be any occasion for the Governor General in Council to exercise the power given in this sub-clause. The question is whether it is proper for this House to delegate its legislative powers to or abdicate its functions in favour of the Governor General in Council on an important point like this. If, as the Honourable the Leader of the House stated, the occasion for exercise of such power is likely to be very very rare, I do not see why it is necessary to give this power at all to the Governor General in Council. What is the difficulty for the Governor-General in Council in coming before this House for getting the necessary amendments made in the Act ?

The Honourable Sir Nripendra Sircar : But by that time penalty would have been incurred and the man will be sent to jail or fine collected.

Mr. M. S. Aney : If such an occasion arises, the extraordinary power of the Governor General could be invoked by him until the necessary amendment is made in the Act. There is no necessity for us to confer on him additional powers under this law in addition to whatever powers he can exercise otherwise.

Sir H. P. Mody : We have given wider powers in the matter of tariffs and other things.

Mr. M. S. Aney : If it is in my power I shall curtail all those powers when those Bills come before me.

The Honourable Sir Nripendra Sircar : Sir, if my friend will allow me, it is not a question of those Bills. Under section 151 of the Companies Act which my friend has not tried to amend, Government has got powers which may be said to be ten thousand times wider than this. He can alter any of your forms in the Schedule.

Mr. M. S. Aney : If there is one mistake of omission, I do not want to add to it another one of commission. I say we should not add to our mistakes by passing this.

Sir Cowasji Jehangir : Sir, I do not think the position has been quite clearly understood ; really no great principle is involved. For the first time banking has been attempted to be defined. In defining banking the Select Committee have put down 17 different kinds of business that a banker may do. It may happen that there may be an 18th kind of business that a bank may do which has missed the attention of the experts and the Select Committee. Nobody can be said to be infallible, and in attempting the task that the Select Committee have attempted, of defining banking, it is more than possible that they have left out something. Now, Sir, all that this proviso enables Government to do is to include, by executive action, an 18th clause to the 17 already included in the Bill. They have no power to take away any one of the 17 ; they have been only given power to add one or two more in their attention is drawn to the necessity of such addition.

An Honourable Member : They may bring in a Bill.

Sir Cowasji Jehangir : Then, Sir, it may cause a considerable amount of inconvenience. It may be only to one bank. If Government have not got this power, it may take time for Government to bring in a Bill before the Legislature, or the Government may think that the matter is not of sufficient importance that would really justify them in bringing in a Bill. In the meantime that one banking company will suffer. Since an attempt has been made to define ' banking ', I think it is essential that this power should be given to Government. I will give you another argument. Banking may have been defined in another way. Only the first portion of it may have been put into the Bill and the rest may have been put into a schedule. If it had been put in a schedule I am sure my Honourable friend would not have objected to Government changing that schedule.

Pandit Govind Ballabh Pant : I would have, I assure you.

Sir Cowasji Jehangir : Then Government have today power under this very Act to change all the forms, one of the most important parts of the Act, whenever they find it necessary to do so. I contend that if this had been in a schedule the question would never have arisen. Because it has been embodied in the Bill, the question arises in this new form. Therefore, I will suggest to this House that for the safety of banks and banking, they will not insist upon deleting this proviso.

Dr. Ziauddin Ahmad : Sir, there is one point to which I should like to draw attention. They have defined 'banking' in 16 clauses and in the 17th anything that is left out is included, that is, "all such other things as are incidental or conducive to the promotion and advancement of the business of the company". Under this 17th clause anything can be included.

The Honourable Sir Nripendra Sircar : No, anything cannot be included.

Dr. Ziauddin Ahmad : The problem of the three bodies cannot be included in this. Then after having 17 clauses providing for every possible thing that may arise, I do not see any necessity for adding a proviso and authorising the Governor General in Council to add anything further.

Another thing is that whenever there is an Act of the Legislature, it is absolutely repugnant to me to hand over the powers of the Legislature by an Act and Legislature itself to the executive. We have made attempts to define banking in the first 16 sections and afterwards added a 17th to cover everything else that may possibly arise, and on top of that you give additional power to the Governor General in Council to extend it further. I see no justification for it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 111 of the Bill, the proviso to sub-section (2) of the proposed section 277F be omitted."

The Assembly divided :

AYES—35.

Aney, Mr. M. S.
Ayyangar, Mr. M. Ananthasayanam.
Bhagavan Das, Dr.
Chaliha, Mr. Kuladhar.
Chetty, Mr. Sami Vencatachelam.
Das, Mr. B.
Das, Mr. Basanta Kumar.
Das, Pandit Nilakantha.
Datta, Mr. Akhil Chandra.
Desai, Mr. Bhulabhai J.
Gadgil, Mr. N. V.
Giri, Mr. V. V.
Govind Das, Seth.
Hosmani, Mr. S. K.
Jedhe, Mr. K. M.
Jogendra Singh, Sirdar.
Joshi, Mr. N. M.
Kailash Behari Lal, Babu.

Khan Sahib, Dr.
Khare, Dr. N. B.
Lalchand Navarai, Mr.
Mangal Singh, Sardar.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Paliwal, Pandit Sri Krishna Dutta.
Pant, Pandit Govind Ballabh.
Raghubir Narayan Singh, Choudhri.
Ranga, Prof. N. G.
Saksena, Mr. Mohan Lal.
Sant Singh, Sardar.
Sham Lal, Mr.
Sheodass Daga, Seth.
Sri Prakasa, Mr.
Varma, Mr. B. B.
Ziauddin Ahmad, Dr.

NOES—47.

Abdul Hamid, Khan Bahadur Sir.
 Abdullah, Mr. H. M.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ayyar, Diwan Bahadur R. V. Krishna.
 Bajoria, Babu Baijnath.
 Bajpai, Sir Girja Shankar.
 Bartley, Mr. J.
 Bewoor, Mr. G. V.
 Bhat, Mr. M. D.
 Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Chunder, Mr. N. C.
 Dalal, Dr. R. D.
 Das-Gupta, Mr. S. K.
 Dey, Mr. R. N.
 Ghuznavi, Sir Abdul Halim.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Jehangir, Sir Cowasji.
 Khurshaid Muhammad, Khan Bahadur Shaikh.

Lal Chand, Captain Rao Bahadur Chaudhri.
 Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Mody, Sir H. P.
 Morgan, Mr. G.
 Mukherjee, Rai Bahadur Sir Satya Charan.
 Naydu, Diwan Bahadur B. V. Sri Hari Rao.
 Nind, Mr. W. W.
 Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Rat, Mr. P. R.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.
 Sen, Mr. Susil Chandra.
 Sher Muhammad Khan, Captain Sardar.
 Singh, Rai Bahadur Shyam Narayan.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Witherington, Mr. C. H.

The motion was negatived.

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 111 of the Bill, in the proviso to sub-section (2) of the proposed section 277F, the words ‘ subject to the condition that such notification shall not remain in force for more than six months ’ be added at the end.”

The effect of this amendment will be this : that the notification will remain in force for six months and in cases of urgency it will be open to the Government to introduce anything in this clause that they may consider necessary. But while enabling them to meet such urgency, it would require them to seek the approval of the Legislature within the period of six months in order to bring about a permanent amendment in this clause 277E. I do not see what possible objection there can be to it. If it is the intention of the Government that the Governor General in Council should modify this clause 277E or add to the sub-clauses (1) to (17), against the wishes of the Legislature, then there can be some ground for opposing my amendment ; but if it be the intention of the Government and if it is their expectation that this action that the Governor General in Council will or may take should be in accord with the wishes of this House or its successor, but that in cases of difficulty it should be open to the Governor General in Council to add to this clause, then both the contingencies are fully met by my amendment. They will have full six months to carry on without any reference to the Legislature and if during that period they feel that the clause should be amended and that some new line of business should be introduced so as to be of permanent duration, then they can come to the Legislature and seek its approval. I hope all the waverers will now join me and we will be able to defeat the Government.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, in the proviso to sub-section (2) of the proposed section 277F, the words ‘ subject to the condition that such notification shall not remain in force for more than six months ’ be added at the end.”

The Honourable Sir Nripendra Sircar : Sir, it is not a question of distrust of the Legislature ; but the question is what are the circumstances to which this proviso may relate. The occasion probably will be—and a remote occasion—that some bank has been hit because its business or rather subsidiary business is not covered by the 17 items and there ought to be item 18. We do think in a situation like that to make it compulsory that both Houses should be moved or there should be Resolutions in both Houses for a case of that kind is one that is not required. I oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, in the proviso to sub-section (2) of the proposed section 277F, the words ‘ subject to the condition that such notification shall not remain in force for more than six months ’ be added at the end.”

The Assembly divided :

AYES—33.

Aney, Mr. M. S.
Ayyangar, Mr. M. Ananthasayanam.
Bhagavan Das, Dr.
Chaliha, Mr. Kuladhar.
Chetty, Mr. Sami Vencatachelam.
Das, Mr. B.
Das, Mr. Basanta Kumar.
Das, Pandit Nilakantha.
Datta, Mr. Akhil Chandra.
Desai, Mr. Bhulabhai J.
Gadgil, Mr. N. V.
Giri, Mr. V. V.
Govind Das, Seth.
Hosmani, Mr. S. K.
Jedhe, Mr. K. M.
Jogendra Singh, Sirdar.
Joshi, Mr. N. M.

Kailash Behari Lal, Babu.
Khan Sahib, Dr.
Khare, Dr. N. B.
Mangal Singh, Sardar.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Paliwal, Pandit Sri Krishna Dutta.
Pant, Pandit Govind Ballabh.
Raghubir Narayan Singh, Choudhri.
Ranga, Prof. N. G.
Saksena, Mr. Mohan Lal.
Sant Singh, Sardar.
Sham Lal, Mr.
Sheodass Daga, Seth.
Sri Prakasa, Mr.
Varma, Mr. B. B.

NOES—48.

Abdul Hamid, Khan Bahadur Sir.
Abdullah, Mr. H. M.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab Sir.
Ayyar, Diwan Bahadur R. V. Krishna.
Bajoria, Babu Baijuath.
Bapal, Sir Girja Shankar.
Bartley, Mr. J.
Bewoor, Mr. G. V.
Bhat, Mr. M. D.
Buss, Mr. L. C.
Chapman-Mortimer, Mr. T.
Chunder, Mr. N. C.
Dalal, Dr. R. D.
Das-Gupta, Mr. S. K.
Dey, Mr. R. N.
Ghuznavi, Sir Abdul Halim.
Grant, Mr. C. F.

Grigg, The Honourable Sir James.
Hudson, Sir Leslie.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Jehangir, Sir Cowasji.
Khurshaid Muhammad, Khan Bahadur Shaikh.
Lal Chand, Captain Rao Bahadur Chaudhri.
Metcalf, Sir Aubrey.
Milligan, Mr. J. A.
Mody, Sir H. P.
Morgan, Mr. G.
Mukherjee, Rai Bahadur Sir Satya Charan.
Naydu, Diwan Bahadur B. V. Sri Hari Rao.
Nind, Mr. W. W.

NOES—*contd.*

Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Rau, Mr. P. E.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.

Sen, Mr. Susil Chandra.
 Sher Muhammad Khan, Captain Sardar.
 Singh, Rai Bahadur Shyam Narayan.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Witherington, Mr. C. H.
 Ziauddin Ahmad, Dr.

The motion was negatived.

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 111 of the Bill, in the proviso to sub-section (2) of the proposed section 277F, the words ‘ unless approved by both houses of the central legislature whether before such publication or thereafter within the aforesaid six months ’ be added at the end.”

I do not propose to make any speech in the hope that the Honourable the Law Member will accept at least this amendment. (Laughter.)

Sir H. P. Mody : On a point of order, Sir. The last amendment has been defeated, and the time limit of six months has been thrown out, and by this amendment the same limit of six months is again sought to be imposed.

Pandit Govind Ballabh Pant : Out of regard for Sir Homi Mody, I beg leave of the House to withdraw the amendment. (Laughter.)

The amendment was, by leave of the Assembly, withdrawn.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 111 of the Bill, in the proposed section 277G, after the word ‘ employ ’ the words ‘ or be managed by ’ be inserted.”

I do not propose to make any real change in the section. The intention of this section 277G is that there should be no managing agent for a bank, either old or new, but the word “ employ ” may possibly be misconstrued. It might be construed that the old agencies might continue and that the word “ employ ” meant the employment of new agents. In order to preclude the possibility of such a misconception, I move this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, in the proposed section 277G, after the word ‘ employ ’ the words ‘ or be managed by ’ be inserted.”

The Honourable Sir Nripendra Sircar : We accept the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, in the proposed section 277G, after the word ‘ employ ’ the words ‘ or be managed by ’ be inserted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The House stands adjourned till 11 o'clock tomorrow. As regards questions tomorrow, I understand that there is every chance of this Bill being finished by 5 o'clock even if we have the question hour. Questions will, therefore, be taken up tomorrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 7th October, 1936.

LEGISLATIVE ASSEMBLY.

Wednesday, 7th October, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock,
Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

MEMBER SWORN.

Mr. George Richard Frederick Tottenham, C.S.I., C.I.E., M.L.A.
(Defence Secretary).

QUESTIONS AND ANSWERS.

PRODUCTION AND DISTRIBUTION OF QUININE IN THE PROVINCES.

820. *Prof. N. G. Ranga : Will Government be pleased to state :

- (a) whether they do propose to undertake the responsibility of seeing that there is an adequate production and distribution of quinine in different provinces for the protection of the malaria-affected people ;
- (b) if not, which, according to them, authorities are responsible for protecting such people ;
- (c) what is the function of their Public Health Commissioner, and the Central Advisory Council attached to him in regard to this matter ; and
- (d) whether they propose to consider the advisability of convening a conference of Provincial and Central authorities and help them to develop a dependable comprehensive scheme of producing and distributing quinine and fighting adequately and resolutely the disease of malaria ?

Sir Girja Shankar Bajpai : (a) to (d). I would refer the Honourable Member to my replies to Mr. Satyamurti's question No. 429 asked on the 17th September, 1935, and the connected supplementaries.

Prof. N. G. Ranga : What is the specific answer to part (c) ?

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member looked up the answer just given ?

Prof. N. G. Ranga : I have heard that answer, Sir, but there was no specific answer to part (c). What are the functions of the Public Health Commissioner and the Central Advisory Council in regard to the supply of quinine ?

Sir Girja Shankar Bajpai : There is no Central Advisory Council. There is a Public Health Commissioner, and his function is merely to advise the Government of India in regard to public health problems in their international aspect ?

Prof. N. G. Ranga : Is there no Public Health Central Advisory Council ?

Sir Girja Shankar Bajpai : No there is no Public Health Advisory Council at the present moment; there may be one in the near future.

Prof. N. G. Ranga : When is it likely to be appointed ?

Sir Girja Shankar Bajpai : I think His Excellency the Viceroy had something to say on the subject in his address to the Legislature recently.

Mr. Mohan Lal Saksena : Are the Government of India aware that in the flood-stricken areas in the United Provinces malaria is raging ?

Sir Girja Shankar Bajpai : That is quite possible. I have no definite information.

Mr. Mohan Lal Saksena : Have arrangements been made for free distribution of quinine in those areas ?

Sir Girja Shankar Bajpai : I do not know whether arrangements have been made for free distribution of quinine in those areas. That question ought to be addressed to the Local Government.

REPORTS OF THE LOCAL GOVERNMENTS UPON THE DISTRIBUTION AND UTILISATION OF THE RURAL DEVELOPMENT GRANT.

821. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) if they have considered the reports of the Local Governments upon the distribution and utilisation of their Rural Development Grant of 1935-36 ;
- (b) if so, whether they have considered the necessity for organising a permanent or temporary All-India Central Rural Development or Reconstruction Council for devising various methods of fighting malaria, beri-beri, hook-worm and guinea worm diseases, providing pure drinking water supply, constructing and developing village road communications, famine protection works of major and minor irrigation, the improvement of cattle breeding, purer and more adequate supply of milk for babies and propagating better methods of cultivation and dietary ; and
- (c) if not, whether they are prepared to consider the advisability of constituting such a Council, consisting of the representatives of Provincial Governments, Peasants' Associations and organisations interested in rural reconstruction, irrespective of their political attachments ?

The Honourable Sir James Grigg : (a) Yes.

(b) and (c). I invite the Honourable Member's attention to my reply to parts (c) and (d) of Mr. Satyamurti's question No. 176 on the 8th September, 1936.

Prof. N. G. Ranga : In view of the fact that several....

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member seen that answer ?

Prof. N. G. Ranga : I was hearing that answer, Sir. In view of the fact that several Provincial Governments have constituted Rural Reconstruction Boards and Rural Economic Advisory Councils, Taluka and District Development Associations, will Government consider the advisability of founding a Central Rural Reconstruction or Development Board to co-ordinate all the efforts that are being made in different provinces and also to advise such of the provinces which care to seek the advice of this Central Board ?

The Honourable Sir James Grigg : No, Sir ; I don't think it is necessary, particularly as I am afraid the prospect of further grants in the immediate future from Central Government are rather remote.

Prof. N. G. Ranga : In what way do the Government of India propose to implement the rural development campaign that is sought to be started by His Excellency the Viceroy ?

The Honourable Sir James Grigg : Well, I think that question arises out of the next question which the Honourable Member is going to ask, and he had better wait until that question is answered.

Mr. K. Ahmed : Is it not a fact, Sir, that there are so many exhibition trains, special officers and publicity officers in the districts roaming about the rural areas advising the people on rural reconstruction matters and they are also distributing them quinine freely ?

REPORTS OF THE LOCAL GOVERNMENTS UPON THE DISTRIBUTION AND UTILISATION OF THE RURAL DEVELOPMENT GRANT.

822. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) what advice was given by them to the Provincial Governments in regard to the distribution and utilisation of their first and second Rural Development Grants ;
- (b) whether they have received the reports of the Local Governments upon the utilisation of the first one crore grant ;
- (c) if so, whether they will place them on the table of the House ;
- (d) whether they have received the proposals of Local Governments for the utilisation of the second grant ;
- (e) if so, whether they will place the schemes, finally accepted by them, on the table of the House ;
- (f) whether they have taken any of the Committees of the House, or any public body, or public men, into consultation before the Provincial Schemes were accepted ; and
- (g) if not, whether they propose to consider the advisability of modifying their policy, in view of better results got in the distribution of the Central Road Development Funds ?

The Honourable Sir James Grigg : (a) and (d). The lines on which the Government of India desired the Provincial Governments to spend

the grant made in 1935-36 are indicated in page 3 of the White Paper which I presented to the House on the 6th September, 1935, in reply to Mr. Basanta Kumar Das's question No. 162. No grant has so far been made to the Provincial Governments in the current year. The Government of India are awaiting proposals from Provincial Governments regarding the utilisation of further grants on the lines indicated to them. The views communicated to the Provincial Governments are set out in the statement which I am now laying on the table.

(b) and (c). I hope to place a statement on the table of the House at an early date.

(e) I would refer the Honourable Member to the concluding sentence of the penultimate sub-paragraph of paragraph 34 of my last budget speech.

(f) and (g). I invite a reference to my reply to parts (c) and (d) of Mr. Satyamurti's question No. 176 on the 8th September, 1936.

Views communicated by the Government of India to all Local Governments and Administrations on the question of the utilisation of further grants for rural development.

A sum of Rs. 92½ lakhs was placed at the disposal of Local Governments and Minor Administrations during 1935-36. An extra amount of Rs. 103 lakhs is available for the current financial year, and will be distributed to the provinces, etc., according to the statement annexed. The main efforts of the Central Government are now, as is well known, bent towards the early devolution of resources to provinces in accordance with the recommendations of the Neimeyer Report and in these circumstances the figure of approximately Rs. 2 crores which represents the sum of these two allotments must constitute the maximum that the Government of India are likely to be able to contribute to provinces within any foreseeable future in aid specifically of rural development. It is in these circumstances of the utmost importance that it should be expended to the greatest possible advantage, and the Government of India therefore consider it appropriate to state the impressions that they have formed from careful perusal of provincial reports on the allocation or actual expenditure of the amounts allotted last year and, on the basis of these impressions, and on the information available to them, to indicate the conditions subject to which they propose to make the further distribution envisaged in this year's budget speech, and their suggestions for the future expenditure of the funds that may still be available from last year's allotment.

2. The task of comparing the values of the objects selected by the different Local Governments for expenditure from the grants made to them and of making suggestions for future expenditure is rendered difficult by two circumstances. In the first place the needs of provinces are not identical. Secondly, many of the schemes undertaken last year were admittedly experimental and most of them are incomplete; it is probable therefore that Local Governments would in any case have reconsidered the position and revised their programmes. There are, however, certain general points which have struck the Government of India. First, except in one or two provinces, effort has tended to become diffused over too wide a field and it appears to the Government of India to be essential to avoid this by concentrating, as indeed some provinces have done, on two or three main heads. Secondly, in a number of provinces the machinery of sanction and control has tended to become too centralised, with the result that progress of local schemes has been hindered by the inadequate freedom of initiative of the district authorities. In other provinces again, the allotments have been made not to the district officer, but to local bodies, e.g., District Boards. The Government of India consider that it is of the first importance to concentrate the relatively small funds available for each district in the hands of the district officer so that they can be disbursed through a single channel on objects selected in fulfilment of a single co-ordinated policy.

3. The points referred to above relate to the machinery and method of distribution. In addition to these there is a fundamental principle to be borne in mind in deciding how the funds shall be expended, to which the Government of India attach the utmost importance. This is that all schemes should be contributory, that is to say, that villages or other areas which are to benefit by sums drawn from these grants to provinces should themselves make a contribution of say not less than one-third, either in cash or in kind (by labour or the like), as a condition of receiving the remaining two-thirds. It goes without saying that if this could be ensured, not only would it be possible materially to extend the benefits which will be derived by villages from the grants now under discussion but also a much closer and more real co-operative interest on the part of the cultivators themselves would have been evoked.

4. With these preliminary observations the Government of India desire that the scheme of rural re-construction adopted last year by the Government of Madras, etc., should be re-examined and, so far as possible, modified in the light of the following general principles :

- (i) Each Local Government should select two or three main objects, suited to the conditions of its own province, to which to devote the money available, and should resist every attempt to deflect it from those objects. Two points which are eminently deserving of attention, are the improvement of rural communications and the improvement of water supply. In the economic field, the consolidation of holdings may also be thought to merit consideration. The Punjab has done much in this direction and will doubtless be ready to give to other provinces the benefit of its experience.
- (ii) The grants to provinces are of course not liable to lapse at the end of a financial year. It is important, therefore, that Local Governments and their district officers should avoid shortrange schemes or attempts to accelerate accomplishment at the sacrifice of the stability of the results achieved ; and that they should work out a definite policy and plan for spending the amount available over a period of say five years. This plan should not only cover the whole of the amounts now to be made available ; it should also embrace any such amounts which are still unallotted or which it is still possible to reallocate, from the grants made last year.
- (iii) The execution of actual schemes should be definitely dependent on the appropriate contribution as indicated in paragraph 3 above from the villagers themselves being forthcoming.
- (iv) Subject to (v) below, there should be, in respect to the power of allocation of grants and to the actual execution of schemes, the maximum degree of delegation to the District Officer, save where there are quite special reasons to the contrary or where the nature of a particular scheme will not admit of this. There should be a clear definition of the objects on which money is to be spent, periodic inspection of schemes and expenditure throughout each province by a competent officer, with knowledge of district work, and periodical reports on the progress which is being made ; but, within this fairly wide frame-work, complete freedom of initiative should be left to the district officer, or other person in immediate charge, so as to ensure freedom of development. The reports of the reviewing officer, which will be submitted to the Local Government, will enable the latter to secure conformity of local effort to the common plan and modification of this plan, should this become necessary, on a co-ordinated basis. Closer control on local initiative and activity should not really be necessary. The Government of India will be glad to receive copies of the periodic reports of the Provincial Reviewing Officers and, at intervals of six months, a consolidated review of progress for a Province as a whole.
- (v) The bulk of the grants (say 80 per cent.) should be allocated to Districts on a rural population basis. The remainder should be available for allocation, still within the two or three main categories of scheme decided upon, to specially needy Districts or even possibly to special schemes to meet special local exigencies.

5. The Government of India have indicated in the preceding paragraphs the conditions subject to which they propose to make the further grants now under consideration to Local Governments. They will be glad to be furnished, at an early date, with information (a) as to the particular categories of scheme which the Government of Madras etc. wish to adopt, (b) as to the amounts which they propose to divert to such categories from allocations made to other purposes under last year's grant, and (c) as to the extent and nature of the delegation proposed to be made to district officers, and the arrangements contemplated for the periodic inspections referred to above. They would also be glad to be furnished with an up-to-date Report by the end of July as to the expenditure incurred under such of last year's schemes as will remain in operation and also of the results actually achieved.

Rural Development Grants.

Province.	Rural Population (in millions).	Previous allotment (in lakhs of Rs.)	Proposed allotment (lakhs).
Madras	37.90	14	15
Bombay	13.79	7	5
Sind	3.19		3
Bengal	46.43	16	18
United Provinces	42.98	15	17
Punjab	20.51	8.5	8.5
Burma	13.15	5	5
Bihar	30.91	12.5	12
Orissa	7.80		4
Central Provinces	13.64	5	6
Assam	8.41	5	5
North-West Frontier Province	2.04	3	3
Delhi .. .. .	..	.5	.5
Ajmer-Merwara .. .. .	..	.5	.5
Coorg .. .. .	..	.5	.5
Total .. .. .	..	92.5	103

Prof. N. G. Ranga : May I now have an answer to the supplementary which I put ? It was this. In what way do the Government of India expect to implement the rural development campaign that is sought to be inaugurated by His Excellency the Viceroy ?

The Honourable Sir James Grigg : It is in the statement which I am going to lay on the table.

Prof. N. G. Ranga : What is that statement ? These grants were made long before His Excellency the Viceroy came to this country ?

The Honourable Sir James Grigg : This statement refers to the second lot of grants.

Prof. N. G. Ranga : Then am I to understand that the second lot of grants is to be spent in such a way as to help the fulfilment of the rural development campaign sought to be inaugurated by His Excellency the Viceroy ?

The Honourable Sir James Grigg : That is my impression, and that is the impression of the Government of India.

Prof. N. G. Ranga : How much money is being set apart for the development of the stud bull campaign ?

The Honourable Sir James Grigg : I cannot discriminate between the actual amounts allotted for different purposes. The Honourable Member is really putting himself in a disadvantageous position by asking questions before he has read the statement. The total amount available to the four provinces under the second year's grant is 108 lakhs.

Mr. Mohan Lal Saksena : Have any committees been appointed in the provinces to advise the Government in the matter ?

The Honourable Sir James Grigg : I cannot answer that without notice.

Prof. N. G. Ranga : Why is it that no Committee of this House has been appointed on the lines of the Central Rural Development Committee to advise the Government in regard to the distribution of expenditure among these Rural Development Boards ?

The Honourable Sir James Grigg : I think the Honourable Member can answer that for himself.

DISTRIBUTION AND UTILISATION OF THE GRANT FOR THE DEVELOPMENT OF CO-OPERATIVE MOVEMENT.

823. ***Prof. N. G. Ranga :** Will Government be pleased to state what action has so far been taken in regard to the distribution and utilisation of their grant for the development of co-operative movement ?

Sir Girja Shankar Bajpai : Out of the sum of Rs. 15 lakhs set apart for the development of the co-operative movement Rs. 10,57,635 have so far been allotted to the Local Governments, etc., for utilisation on schemes approved by the Government of India. Information as to how the money has been utilised will be available when the annual progress reports which Local Governments have been asked to submit are received.

Prof. N. G. Ranga : Is this money spent for making grants to various Provincial Co-operative Institutes and Training Schools that are started by voluntary efforts or is it spent by making grants to institutes started through the department by departmental efforts ?

Sir Girja Shankar Bajpai : Sir, the money has been given primarily for the purpose of educating the members of the co-operative staff, that is to say, the official staff, and also members who happen to be office bearers of co-operative societies in an honorary capacity. There is a

carefully worked out scheme of instruction, and I don't think that any voluntary agencies are being utilised for the purpose of instruction.

Prof. N. G. Ranga : Are Government aware of the fact that there is a Central Co-operative Training Institute organized by voluntary effort, and also a Provincial Co-operative Training Institute in Madras ?

Sir Girja Shankar Bajpai : That is quite possible, Sir.

Prof. N. G. Ranga : Are these Institutes given any grants out of this special grant for co-operative training ?

Sir Girja Shankar Bajpai : Sir, the Honourable Member does not seem to appreciate that the grants have been made to Local Governments but the discretion as to whether and how they will give the instruction which has been suggested by Mr. Darling rests with them ; I am not in a position to say whether they are utilising voluntary non-official agencies in the provinces for the purpose, or whether they are sending their students to places like Lahore, I cannot say.

Prof. N. G. Ranga : Is the money to be spent in one year or over a series of years ?

Sir Girja Shankar Bajpai : It is going to be spread over a period of years

Mr. Mohan Lal Saksena : On what basis was the sum of ten lakhs distributed to the provinces ?

Sir Girja Shankar Bajpai : It has been distributed on the membership of the primary societies.

SALT CONCESSIONS AVAILED OF IN THE FAMINE-STRIKEN AREAS IN BENGAL.

824. ***Prof. N. G. Ranga :** Will Government be pleased to state whether salt concessions were availed of in the famine-stricken areas in Bengal ?

The Honourable Sir James Grigg : The Honourable Member's attention is invited to the reply given by Sir Girja Shankar Bajpai to his question No. 503 on the 22nd September, 1936.

Prof. N. G. Ranga : Sir, is the Honourable Member aware that serious famine conditions still continue to prevail over large parts of Bengal ?

The Honourable Sir James Grigg : I will take that from the Honourable Member. I do not see the relevancy of it in relation to his question.

Prof. N. G. Ranga : What action is being taken by the Central Government to help these famine-stricken Provinces ?

Mr. President (The Honourable Sir Abdur Rahim) : The question is regarding salt concessions.

The Honourable Sir James Grigg : That was fully set out in the reply to which I have referred.

ARTICLE ENTITLED "N. W. R. LOWER GAZETTED SERVICE AND MUSLIMS" PUBLISHED IN THE *Eastern Times*.

825. ***Sir Muhammad Yakub** (on behalf of Dr. Ziauddin Ahmad) :
(a) Has the attention of Government been drawn to an article published

in the *Eastern Times*, dated the 9th August, 1936, under the head "N. W. R. Lower Gazetted Service and Muslims" ?

(b) Is it a fact that the posts mentioned in the article were not advertised ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) Recruitment to the Lower Gazetted Service is made by promotion from subordinate service but in 1931 it was decided to admit as eligible for appointment a limited number of selected temporary Engineers who had been in temporary employment for some years but whose services had to be dispensed with on account of the depression. These selected temporary Engineers are being offered appointment to the Lower Gazetted Service as vacancies become available. In the circumstances it was unnecessary to advertise the posts.

CONSTRUCTION OF AN OVERBRIDGE AT BEZWADA RAILWAY STATION.

826. ***Mr. K. Nageswara Rao :** Will Government be pleased to state what steps are taken by them with regard to the following resolution passed by the Bezwada Municipality with reference to the communication of the Madras and Southern Mahratta Railway, No. 2829-G.Z., dated 9th August, 1935, regarding the construction of an overbridge at Bezwada Railway Station ?

" This council resolves that it is absolutely necessary to have an overbridge across the railway line in front of the Telegraph Office or if that it is deemed impracticable for any reason the overbridge may be constructed at the Railway Station by the side of foot overbridge and request Government to prepare plans and estimates. This council agrees to bear such proportion of estimated costs as the Government deem it reasonable having."

The Honourable Sir Muhammad Zafrullah Khan : This is a matter within the competence of the Railway Administration. If a copy of the resolution passed by the Bezwada Municipality is sent to them, they will deal with it in accordance with the rules on the subject, which lay down the proportion in which costs have to be shared.

ARTICLE ENTITLED "BORROWINGS OF LOCAL BODIES" PUBLISHED IN THE *Indian Finance*.

827. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will the Honourable the Finance Member be pleased to state :

†(a) whether his attention has been drawn to the editorial article in the *Indian Finance* of the 1st of August, 1936, entitled "Borrowings of Local Bodies" ;

(b) whether Government propose to take steps for the unification of loan activities under one control in order to promote a healthy and well-functioning capital market ; and

(c) whether Government are considering any proposal to unify the responsibility for guiding and directing the issues of trustee securities in the country ?

The Honourable Sir James Grigg : (b) and (c). One of the main functions of the Reserve Bank is to plan loan issues and regulate their

†No reply was given to part (a) of the question.

flotation. The Government of India have already taken steps to secure the co-operation of Provincial Governments in enabling the Bank to exercise this function properly.

Prof. N. G. Ranga : Is the Reserve Bank entitled to arrange for the flotation of these loans, or the Government has a final say ?

The Honourable Sir James Grigg : That is a question for co-operation between the Government of India, the Reserve Bank and the Provincial Governments.

Prof. N. G. Ranga : Are local bodies entitled to raise loans on their own responsibility without the permission of either the Provincial or the Central Government ?

The Honourable Sir James Grigg : That will be too long to answer in detail. The position for the remaining period of the old constitution differs very materially from the position that will be after April 1937, and it differs in relation to the different kinds of local authorities.

Prof. N. G. Ranga : Is it not competent to Local Governments to raise loans on their own responsibility and on their own initiative for development purposes, without seeking the permission of the Central Government ?

The Honourable Sir James Grigg : At the present moment, no, not at all. Under the new constitution, the consent of the Government of India will be required for borrowing by any province which has a debt outstanding with the Government of India.

Mr. N. V. Gadgil : Will Government include the loans issued by these local bodies as good security within the provisions of the Indian Trusts Act ?

The Honourable Sir James Grigg : That is a different point. The Honourable Member has got a Bill I believe by which he wants to promote some such object.

Prof. N. G. Ranga : Does that answer apply to cases where the loans of Local Governments owing to the Central Government are very well covered by their assets ?

The Honourable Sir James Grigg : The Government of India Act, 1935, is quite specific on the point. It does not discriminate between well-secured and ill-secured loans.

Prof. N. G. Ranga : Does this apply then to the loans that are to be raised within their own respective provinces ?

The Honourable Sir James Grigg : A good many of the Provinces could not possibly raise loans within their own provinces because of the non-existence of financial markets.

CONCLUSIONS ARRIVED AT IN THE CONFERENCE OF FINANCIAL EXPERTS IN SIMLA.

828. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) the conclusions arrived at by the conference of financial experts under the chairmanship of the Honourable the Finance Member in Simla on the 5th, 6th and 7th of August, 1936 ;

- (b) what are the limitations or suggestions regarding the exercise by Governors of Provinces of their special powers to provide supplies pending budget sessions ;
- (c) whether any conditions have been laid down with regard to the procedure in regard to future provincial borrowings ; if so, what they are ;
- (d) what are the new accounting arrangements which have been created on the separation of the finances of the provinces from the centre ;
- (e) what is the legal procedure which has been decided for implementing those recommendations of Sir Otto Neimeyer which have not already been carried out by Order in Council ;
- (f) whether these and other conclusions of the conference are intended to be binding on future financial ministers of provinces ; if so, why ; and
- (g) if not, the purpose of arriving at these conclusions so soon before the advent of Provincial Autonomy ?

The Honourable Sir James Grigg : The Conference was intended merely for an interchange of views between the representatives of the Provinces and of the Government of India. The discussions were private and informal and I am, therefore, unable to make any statement on the subject.

Mr. M. Ananthasayanam Ayyangar : What is the answer to clause (d) ?

The Honourable Sir James Grigg : Those are arrangements prescribed by the Act, and agreed to by the Auditor General.

Mr. M. Ananthasayanam Ayyangar : Nothing new is evolved ?

The Honourable Sir James Grigg : The minimum of change possible on account of the separation.

Mr. M. Ananthasayanam Ayyangar : So far as that change is concerned, will the public be taken into confidence as to what the changes are ?

The Honourable Sir James Grigg : They will ultimately see the form in which the accounts are presented.

ARTICLE ENTITLED "THE PRIVILEGE OF CONTEMPT" PUBLISHED IN THE *Hindustan Times*.

829. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article in the *Hindustan Times* of the 5th August, 1936, entitled "The Privilege of Contempt" ;
- (b) whether they have perused the article in the *Statesman*, referred to therein, suggesting the placing of judiciary under the executive ; and
- (c) whether they propose to take any action in connection with this matter ?

The Honourable Sir Henry Craik : (a) and (b). I have seen the articles referred to.

(c) No.

POST OF THE CABINET SECRETARY.

830. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether the post of Secretary to the Executive Council, rendered vacant, will for the present be held in abeyance ;
- (b) whether the duties of the post will be carried on by the Secretary to the Legislative Department, in addition to his ordinary duties ; and
- (c) whether the post will be revived, sometime before the inauguration of the Federal Constitution, and, if so, why ?

The Honourable Sir Henry Craik : I would refer the Honourable Member to the replies which I gave to his supplementary questions in connection with Mr. C. N. Muthuranga Mudaliar's starred question No. 512, which I answered on the 18th September, 1936.

Mr. Mohan Lal Saksena : What is the answer to part (c) ?

The Honourable Sir Henry Craik : I have already answered that.

MECHANISATION IN THE ARMY IN INDIA.

831. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether it is a fact that mechanisation is proceeding apace in the Army in India ;
- (b) the rate of progress and the present position of mechanisation ;
- (c) whether this mechanisation has resulted in any retrenchment in army expenditure and, if so, how much ;
- (d) what is the nature of the personnel employed on technical repairs of the mechanical transport,—how much of it is British, and how much Indian ; and
- (e) whether any attempts are being made to replace the British by Indian personnel ; if so, what these attempts are and the results thereof ?

Mr. G. R. F. Tottenham : (a) and (b). I would refer the Honourable Member to the reply I gave to Mr. Asaf Ali's question No. 535 on the same subject on the 18th September, 1936.

(c) No. The value of mechanisation is not, however, to be judged purely by the economies which may result from it, but also by the increased mobility and general efficiency for war that it produces.

(d) and (e). Technical repairs fall into two main divisions : (i) those carried out within the unit, and (ii) larger repairs carried out in army workshops which serve all units. In (i) the personnel is British or Indian according as the unit is British or Indian. As regards (ii), the organisations are preponderatingly Indian ; the British element being only

about 5 per cent. of the whole. The replacement of the remaining British element in the latter category is being progressively carried out as and when technically qualified and trained Indians become available.

Prof. N. G. Ranga : With reference to part (c) of the question, if it has not resulted in any retrenchment of army expenditure, has it resulted in any additional expenditure, and, if so, to what extent ?

Mr. G. R. F. Tottenham : If it has not resulted in a saving, I think it must have resulted in an increase. But I cannot give the exact figures.

Mr. M. Ananthasayanam Ayyangar : With reference to part (e) of the question, what steps are being taken to give facilities for training to Indians so that they may in future replace the British element ?

Mr. G. R. F. Tottenham : The answer to that is that steps are being taken. There is a regular system for employing apprentices and training them at the heavy repair workshops at Chaklala.

Mr. Mohan Lal Saksena : May I know the number of such apprentices ?

Mr. G. R. F. Tottenham : I must ask for notice.

Prof. N. G. Ranga : Is this five per cent. personnel which is said to be British chiefly confined to the higher ranks ?

Mr. G. R. F. Tottenham : No, Sir, it is not confined only to the higher ranks.

Prof. N. G. Ranga : What steps are being taken to replace these British ranks by Indian personnel ?

Mr. G. R. F. Tottenham : I have just answered that.

ARTICLE ENTITLED "THE SECRET AGENT" PUBLISHED IN THE *Statesman*.

832. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the article entitled, "The secret agent", in the *Statesman* of the 4th August, 1936 ;
- (b) whether their attention has been drawn to the position adumbrated in the article that the secret agent is a necessity in India today ;
- (c) whether they have noticed particularly the following sentences in the article : "The present situation is that Government does what it conceives to be its inevitable duty. The High Court also does its duty. But the result is that the High Court tends to bring the Government into hatred and contempt. The system seems a mad one. As far as we know, it exists nowhere outside British Empire, and we cannot imagine other Governments tolerating it" ;
- (d) whether they propose to take any action thereon ;
- (e) whether they propose to accept the remedy suggested by the *Statesman* to make the Courts subordinate to the Executive ;

- (f) whether they are examining suggestions that for 'detention without trial' should be substituted 'detention with trial',
- (g) whether they propose to introduce any form of trial, at which the severely tested evidence of secret agents can be safely placed before the Courts ;
- (h) whether their attention has been drawn to the passage that "where the safety of the Government and of the public is threatened the assumption that a man is innocent till he is proved up to the hilt to be guilty always breaks down and governments are forced to act on the assumption that he is guilty till he can prove himself innocent" ; and
- (i) whether they have noticed that "law and order becomes a meaningless phrase when law is opposed to order, and to restore harmony between law and order seems essential", and what they propose to do in this connection ?

The Honourable Sir Henry Craik : (a), (b), (c) and (h). Yes.

(d), (e), (f) and (g). No.

(i) Nothing.

Mr. M. Ananthasayanam Ayyangar : May I know what is the answer to clause (f) ? Are the Government going to consider any suggestions in that direction ?

The Honourable Sir Henry Craik : No.

Mr. M. Ananthasayanam Ayyangar : Why not ? Are they going to have detention without trial in perpetuity ? Are they considering the suggestion that detention with trial may be substituted ?

The Honourable Sir Henry Craik : No.

Prof. N. G. Ranga : How often do the Government review their policy with regard to these detentions without trial ?

The Honourable Sir Henry Craik : They do not review their policy every time they read a newspaper article about it.

APPOINTMENT OF AN INDIAN AS THE DIRECTOR GENERAL, INDIAN MEDICAL SERVICE.

833. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether it is a fact that the post of the Director Generalship of Indian Medical Services will soon fall vacant ;
- (b) who is the most senior officer entitled to be appointed to this office ;
- (c) whether this is the first time that an Indian officer can by right of seniority claim the post ; and
- (d) whether they propose to appoint an Indian to this place, and if not, why not ?

Sir Girja Shankar Bajpai : (a) The post will fall vacant on the 1st March, 1937.

(b) The post is filled by selection and seniority alone does not entitle an officer to be appointed.

(c) I would refer the Honourable Member to the answer I have given to part (b) of this question.

(d) The name of the officer selected has already been announced.

Mr. Mohan Lal Saksena : Is there any case in which an Indian has been promoted to a higher post irrespective of the fact whether he is senior or not ?

Sir Girja Shankar Bajpai : The fact that at the present moment there are two Indian officers holding the headship of the Civil Medical Department in provinces provides an answer to my Honourable friend's question.

Mr. Mohan Lal Saksena : What I want to know is whether they were promoted irrespective of their seniority ?

Sir Girja Shankar Bajpai : Of course they were promoted as all officers are promoted to selection posts on due consideration of their seniority and merit.

Mr. M. Ananthasayanam Ayyangar : Is it the answer to part (d) of the question that an Indian is to be appointed to the Director-Generalship ?

Sir Girja Shankar Bajpai : No, Sir. I have said that the name of the officer, who has been appointed, has already been announced. He is a European and his name is Major General Bradfield.

Mr. C. N. Muthuranga Mudaliar : May I know if it is not a fact that an Indian was senior to him ?

Sir Girja Shankar Bajpai : I have already said in reply to part (b) of the question that the post is filled by selection and seniority alone does not entitle an officer to be appointed. The officer has passed over two senior European officers as well.

NEGOTIATIONS FOR AN INDO-JAPANESE TRADE AGREEMENT.

834. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether it is a fact that the slow progress of Indo-Japanese Trade talks is due to the fact that the Japanese Consul General has to cable details of each discussion to Tokyo and receive instructions before proceeding to the next step ;

(b) whether any arrangement has been arrived at on the basis of the discussion ; and

(c) whether it will cover the entire trade between the two countries, and when these negotiations are expected to be finished ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (c). Government have nothing to add to the information contained in the Press Communiqués on the subject recently issued by them, copies of which are in the Library.

Mr. Mohan Lal Saksena : Is it a fact that a deadlock has arisen in the negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Prof. N. G. Ranga : Have Government kept in view the advisability of negotiating for an increase in cotton export to Japan ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot divulge all the details of the negotiations.

NEGOTIATIONS FOR A FRESH TRADE AGREEMENT WITH GREAT BRITAIN IN PLACE OF THE OTTAWA TRADE AGREEMENT.

835. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether negotiations for a fresh agreement with Britain in the place of Ottawa, will now be confined to trade between India and Britain and her colonies and protectorates, and the Dominions, will be kept out of the picture for the present ;
- (b) whether memoranda are being exchanged between the Commerce Department and the Department of Trade, London on this matter ;
- (c) whether any results have so far emerged from this exchange of memoranda ;
- (d) when the new agreement with Britain is expected to be concluded ;
- (e) whether they will keep in mind, in negotiating this agreement, the whole question of Indian international trade not only with Great Britain, but with other countries of the world and whether no irrevocable arrangements will be arrived at to weaken India in her negotiations for bilateral trade agreements with other countries, as definitely recommended in the Resolution of the Assembly on the subject ; and
- (f) whether they propose to place their proposals before the Assembly for its approval, and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) Not so far.

(c) Does not arise.

(d) Government are not in a position to say when it is likely to be concluded.

(e) The Honourable Member is referred to the replies given by me to his starred question No. 35 and its supplementaries on the 1st September, 1936.

(f) I would refer the Honourable Member to the reply given by me to part (f) of Seth Govind Das's question No. 701 in the current Session.

STOPPAGE OF TRADERS FROM CHINESE TURKESTAN FROM PROCEEDING TO INDIA *via* LEH.

836. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether it is a fact that traders from Chinese Turkestan are being stopped from proceeding to India *via* Leh, and the Chinese authorities have refused to grant visas for this route ;
- (b) whether it is a fact that the Leh route is the easier of the two routes ;
- (c) whether this latest order is likely to hamper the operations of the Indian traders ; and
- (d) whether they propose to take necessary steps in this matter to redress the grievances of the Indian traders ?

Sir Aubrey Metcalfe : (a) No, but traders are required to obtain exit *visas* from the Provincial authorities.

(b) The Leh route is not the easier, but the more commonly used.

(c) Yes.

(d) It is understood that as the result of protests made by His Majesty's Embassy in Peking, instructions have been issued by the Chinese Government for the abolition of the exit *visa* system.

RUMOURED RESIGNATION OF HIS OFFICE BY SIR OSBORNE SMITH, GOVERNOR OF THE RESERVE BANK OF INDIA.

837. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state whether it is a fact that Sir Osborne Smith, Governor, Reserve Bank of India, will resign his office very soon, as a sequel to acute differences of opinion between himself and the Finance Member ?

The Honourable Sir James Grigg : No, Sir.

Mr. M. Ananthasayanam Ayyangar : Are there no differences between the Honourable Member and the Governor of the Reserve Bank ?

The Honourable Sir James Grigg : I have answered the question. The answer was a categorical No.

Mr. M. Ananthasayanam Ayyangar : But there are two parts of the question.

The Honourable Sir James Grigg : There are no two parts of the question. There is only one question.

Mr. M. Ananthasayanam Ayyangar : Are there acute differences at all ?

The Honourable Sir James Grigg : That is not the business of the Honourable Member. In any case, the relations between the Reserve Bank and the Finance Department are confidential.

Prof. N. G. Ranga : Sir, I take objection to the observation of the Finance Member that it is not the business of the Honourable Members.

Mr. President (The Honourable Sir Abdur Rahim) : The correspondence is confidential.

Prof. N. G. Ranga : Is it permissible for the Finance Member to say that it is not the business of the Honourable Members on this side ?

Mr. President (The Honourable Sir Abdur Rahim) : The Finance Member says that an inquiry is not necessary by any Honourable Member, because the matter is confidential.

Prof. N. G. Ranga : I object to the very tone of the answer, and I seek your protection, because you are here to protect us.

Mr. President (The Honourable Sir Abdur Rahim) : There is no question of protection at all.

COMPETITION BETWEEN CERTAIN SHIPPING COMPANIES PLYING BETWEEN
RANGOON AND THE PORTS IN BENGAL.

838. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether the Secretary, Commerce Department, Government of India, has received communications from the Buyers and Shippers' Chamber, Karachi, against the competition which has been entered into by the Conference Line, with the newly started Indian Steam Ship Companies plying between Rangoon and the ports in Bengal ;
- (b) whether the Conference Line is taking cargoes at nominal rates ;
- (c) whether they propose to take any steps to terminate this ruinous rate-cutting war ; and
- (d) whether they propose to call a Shipping Conference to deal with this and similar matters ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). Government are not aware of the existence of any such rate-cutting war as calls for their intervention.

(d) No.

Mr. Lalchand Navalrai : Will the Honourable Member make inquiries with regard to that matter ?

The Honourable Sir Muhammad Zafrullah Khan : No inquiries are necessary. If there is such a rate-cutting war it is bound to come to the notice of the Government.

Mr. Lalchand Navalrai : In view of the fact that an application has been made by the Shipping Company from Karachi and they have given their facts and the Government has got no material, will the Honourable Member make inquiries in the matter and come to some conclusion ?

The Honourable Sir Muhammad Zafrullah Khan : Which application is the Honourable Member referring to ?

Mr. Lalchand Navalrai : I am referring to the communications referred to in part (a) of the question.

The Honourable Sir Muhammad Zafrullah Khan : Part (a) does not refer to any application by any Shipping Company.

Mr. Lalchand Navalrai : I mean the Shipping Company from Karachi. They have made that application.

The Honourable Sir Muhammad Zafrullah Khan : The communication is from the Buyers and Shippers' Chamber, Karachi.

Mr. Lalchand Navalrai : That is exactly what I mean.

The Honourable Sir Muhammad Zafrullah Khan : Surely, when the Honourable Member says whether I have received an application from a Shipping Company asking me to intervene, that is entirely different from a communication received from the Buyers and Shippers' Chamber, Karachi.

Mr. Lalchand Navalrai : I correct myself and say whether the Government propose to make inquiries and come to certain conclusions instead of giving an indefinite reply in view of the communications that the Honourable Member has received and which are referred to in part (a) of the question ?

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that.

APPOINTMENT OF INDIAN TRADE COMMISSIONERS IN JAPAN AND EAST AFRICA.

839. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the editorial entitled, " Trade Commissioners " in the *Roys Weekly* of the 3rd August, 1936 ;
- (b) whether they propose to appoint Trade Commissioners for India in Japan and East Africa ;
- (c) if so, when ; and
- (d) whether they propose to take steps to see that both these appointments are offered to Indians ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). Yes ; as soon as all the preliminary arrangements have been completed.

(d) The desirability of appointing Indians to these posts will be kept in view.

DISCONTENT AMONG THE UNIVERSITIES OF INDIA REGARDING GRANTS MADE TO THEM.

840. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled " Universities and the State " in the *Hindu* of the 31st July, 1936 ;

- (b) whether they are aware that there is a good deal of discontent among the Universities of India regarding the grants made to them by the Governments, Central and Provincial ;
- (c) whether they observe any principles in the distribution of those grants of the various Universities, and if so, what they are ;
- (d) whether they have considered or will consider the suggestion of the Inter-University Board for a University Grants Committee to work on the lines of the University Grants Committee in Great Britain ; and
- (e) whether they propose to favourably consider the appointing of such a committee in the near future ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The Government of India have no information regarding Provincial Universities. The two centrally aided Universities of Benares and Aligarh receive equal grants while the Delhi University receives grants proportionate to its relatively smaller requirements. Government are not aware of any discontent regarding the principles which regulate the grants made by them.

(d) and (e). The suggestions of the Inter University Board is being considered.

JUDGMENT OF THE SESSIONS JUDGE OF EAST GODAVARI IN MADRAS IN A CUSTOMS SEIZURE CASE.

841. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to a recent judgment in a Customs Seizure case of the Sessions Judge of East Godavari in Madras, reported in the *Statesman* of the 3rd August, 1936 ;
- (b) whether they have considered the statement of the learned Judge : " If as pleaded by the accused, it was the Customs party that started the rough house, the accused had certainly the right to protect themselves " ;
- (c) whether they have noted the finding of the learned Judge that the Customs Officers had acted in a most high-handed manner ;
- (d) whether they have noted the statement of the learned Judge that there is no proof that " the accused were engaged in smuggling ; that they were stopped by the Customs Inspector ; so the bottom drops out of the transaction of the case " ;
- (e) whether they have noted the statement of the learned Judge that " Mr. Zavar Hussain and Mr. Wahab are responsible officers ; they have suppressed facts and have given a distorted version of what happened " ;
- (f) whether the Judge accepted the unanimous verdict of the assessors and acquitted all the accused ; and

- (g) whether they propose to take action for preventing such occurrences in the future, and if not, why not ?

The Honourable Sir James Grigg : (a) to (f). Yes.

- (g) The judgment is at present under consideration.

PERMISSION TO PROVINCIAL EXECUTIVE COUNCILLORS TO STAND FOR ELECTION.

842. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether all executive councillors of the provinces have now been permitted to stand for election to the Provincial Legislatures early next year ;
- (b) whether any conditions have been imposed on their political activities, so long as they retain the executive councillorships ;
- (c) whether they have noticed that some executive councillors have already begun to do political propaganda for their parties ; and
- (d) whether they propose to take steps to stop this, and if not, why not ?

The Honourable Sir Nripendra Sircar : (a), (b) and (d). The Honourable Member is referred to sub-section (a) of section 307 of the Government of India Act, 1935.

- (c) Yes.

Mr. Mohan Lal Saksena : Is it a fact that the Honourable Mr. Raghavendra Rao, Home Member, Central Provinces, has been carrying on the election activities during the last few months ?

The Honourable Sir Nripendra Sircar : I would ask for notice of that question.

Prof. N. G. Ranga : Is it permissible for the Executive Councillors of various Provincial Governments to seek election to the coming Provincial Assemblies ?

The Honourable Sir Nripendra Sircar : I would refer my Honourable friend to section 307 of the Government of India Act, 1935, and if the Chair directs me, I can read that and the Honourable Member can come to his own conclusion.

Qazi Muhammad Ahmad Kazmi : Can an Executive Councillor start doing election propaganda while he is in office ?

The Honourable Sir Nripendra Sircar : Can I assume that my Honourable friend has read section 307 of the Act ?

Mr. M. Ananthasayanam Ayyangar : Having regard to that section of the Government of India Act, may I know if these Executive Councillors can go on from place to place carrying on election propaganda at Government expense ?

The Honourable Sir Nripendra Sircar : If my Honourable friend wants to know if Government has taken any action against any particular Executive Councillor, I want notice of that question, but action is hardly possible.

Mr. Sri Prakasa : May I know whether Executive Councillors, when they travel on election propaganda, do so at the expense of Government and are supposed to be on duty, or whether during these journeys they pay their own railway fares ?

The Honourable Sir Nripendra Sircar : I cannot answer a general question like that and what my Honourable friend assumes to be travelling for election may be a travelling for mixed purposes.

Mr. Mohan Lal Saksena : Is it a fact that under the Government of India Act the Governor General in Council is responsible for the conduct of the elections ?

The Honourable Sir Nripendra Sircar : That is a matter for the construction of the Act.

Mr. Sri Prakasa : Government favour "mixed purposes" like mixed marriages ?

(No answer.)

PROPER TREATMENT OF INDIANS IN CEYLON.

843. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled "Indians in Ceylon" in the *Hindustan Times* of the 4th August, 1936 ;
- (b) whether they will send for the latest report on this matter, and lay it on the table of the House ; and
- (c) whether they are prepared to take all necessary and possible steps to ensure the proper treatment of Indians in Ceylon ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) I lay on the table of the House a statement briefly dealing with the points raised in the article.

(c) It is always Government's endeavour to watch over and protect, so far as lies in their power, Indian interests overseas.

Statement regarding Indians in Ceylon.

The position in regard to the points raised in the leading article referred to in the question is as follows :

(a) *The Minimum Wage Ordinance.*—The Government of India are not aware of any amendment to the Minimum Wage Ordinance to the detriment of Indians.

(b) By the Land Acquisition Ordinance is presumably meant the 'Land Development Ordinance'. Although the restriction referred to in the answer given to Mr. Abdul Matin Chaudhuri's question No. 1 on the 1st February, 1935, which applies to all non-Ceylonese is maintained, it has been ascertained that extensive areas are being mapped out in districts where the population is not too large which Indians born in Ceylon and permanently settled there are entitled to acquire.

(c) *The Income-Tax Ordinance.*—The Ceylon Income-Tax Ordinance makes a distinction between 'residents' and 'non-residents' which applies to all non-residents whether Indians or non-Indians.

(d) *Customs duties.*—The Statement that tariff has increased the Indians' cost of living is correct but the actual margin of increase is probably small.

The Government of India understand that the statement that the increase in customs duties has ruined many small Indian merchants appears to be greatly exaggerated.

(e) *Repatriation.*—A resolution has been passed by the Ceylon State Council recommending that non-Ceylonese should be repatriated in certain circumstances. It is improbable that any action will be taken on it until the proposed Immigration Commission has made its recommendations.

As regards the second resolution which was passed by the State Council in 1934, the Ceylon Government have appointed a Commission to go into the whole question of immigration into Ceylon with a view to its effective control and restriction. The personnel of the Commission and its terms of reference have recently been settled. The Agent of the Government of India is in close touch with the situation and steps will be taken to safeguard the interests of Indians in Ceylon.

NEGOTIATIONS FOR AN INDO-BRITISH TRADE AGREEMENT.

844. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether they have received a letter from the Committee of the Indian Chamber of Commerce, suggesting that non-official advisers representing commerce, industry and agriculture in India should be associated with official spokesmen on behalf of the Government of India during the forthcoming negotiations to replace 'Ottawa', and they should be persons elected by representative organisations, as was done in the case of Indo-Japanese trade negotiations ;

(b) whether they propose to accept the suggestion, and if not, why not ;

(c) whether they have noted that the recommendations also urged on the Government to arrange for final negotiations to replace 'Ottawa' being held in India instead of in England in order to enable the Indian delegates to keep in close and day to day touch with various interests concerned ; and

(d) if they propose to do so, and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) The Honourable Member's attention is invited to the Press Communiqué issued by the Commerce Department on the 31st August, 1936, regarding the appointment of unofficial advisers.

(c) Yes.

(d) No. The Government have been informed that His Majesty's Government in the United Kingdom are not in a position to send a Delegation to India.

Prof. N. G. Ranga : Is there anybody among the non-official advisers who is expected to speak for agriculture ?

The Honourable Sir Muhammad Zafrullah Khan : I have answered that question several times already, put by the same Honourable Member.

Prof. N. G. Ranga : Not this particular question.

The Honourable Sir Muhammad Zafrullah Khan : Yes, this very question.

Prof. N. G. Ranga : That was a different question.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot decide.

Prof. N. G. Ranga : How many non-officials are there in that list ?

The Honourable Sir Muhammad Zafrullah Khan : Will the Honourable Member read the communiqué first.

Mr. Mohan Lal Saksena : On what principle were they selected ?

The Honourable Sir Muhammad Zafrullah Khan : On the principle of their fitness to represent the interests affected.

Mr. Mohan Lal Saksena : How was Mr. Liaqat Hayat Khan considered fit ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot carry on an argument about the individual fitness of each and every adviser.

Prof. N. G. Ranga : I have read the list of advisers. Which of them is expected to speak for agriculture and to protect the industry of agriculture in these negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : I am satisfied that several of them represent agriculture and are fit to look after agricultural interests. If there is a difference of opinion as to their fitness, I am afraid that cannot be helped.

Mr. Mohan Lal Saksena : Is Mr. Liaqat Hayat Khan the only representative from the United Provinces ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member can easily discover that for himself.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow a discussion on each individual member. Next question.

NEGOTIATIONS FOR AN INDO-BRITISH TRADE AGREEMENT.

845. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether they have received replies from all Provincial Governments and commercial bodies to their circular on Indo-British trade negotiations to replace 'Ottawa' ; and

(b) if so, whether they will place them on the table of the House ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No. All those addressed in the matter have not yet replied.

(b) No, Sir.

Mr. M. Ananthasayanam Ayyangar : Will all the replies received be placed before the Advisory Council for their consideration ?

The Honourable Sir Muhammad Zafrullah Khan : I have already said that all this material is being supplied to the unofficial Advisers.

Mr. M. Ananthasayanam Ayyangar : Will the Advisory Council sit again after the receipt of replies from the Local Governments ?

The Honourable Sir Muhammad Zafrullah Khan : All the material that becomes available is being supplied to them. As a matter of fact some material was supplied to them even before they sat.

Mr. M. Ananthasayanam Ayyangar : How long will they sit ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say.

Mr. M. Ananthasayanam Ayyangar : Will there be some interruption between one sitting and another ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say.

INAUGURATION OF FEDERATION.

846. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether it is a fact that Orders in Council are going to be placed shortly before Parliament with regard to the inauguration of the Indian Federation in 1938 ;
- (b) the reason why the Joint Secretary, Political Department, has left by air for London ; and
- (c) whether he will go on tour to important States with a view to expediting negotiations with States for completing instruments of accession ?

The Honourable Sir Nripendra Sircar : (a) Federation is to be established by a Proclamation by His Majesty under section 5 of the Government of India Act, 1935. The stage has not been reached for Orders in Council relevant to the inauguration of Federation to be prepared for presentation to Parliament.

(b) The Joint Secretary has not gone to London. Mr. Lothian, the Additional Secretary, has gone home on leave for reasons connected with his private affairs.

(c) Mr. Lothian on his return will visit certain States in order to elucidate such points of doubt or difficulty as the Rulers may encounter in their consideration of the draft Instruments of Accession, and to enable them to arrive at a decision as soon as practicable.

Mr. M. Ananthasayanam Ayyangar : Have any of the States already expressed their assent to the Draft ?

The Honourable Sir Nripendra Sircar : I am not sure, but even if they had, I would consider it as opposed to public interest to disclose that at this stage.

HELP TO PRIVATE FLYING CLUBS IN INDIA.

847. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled " Flying Clubs " in the *Amrita Bazar Patrika* of the 22nd August, 1936 ?

- (b) whether they propose to take any steps to ensure rapid and satisfactory progress of private flying clubs in India ; and
- (c) whether they propose to help, by long term planning, some of the existing concerns that labour under special handicaps to explore new routes for the growth of civil aviation ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) The Government of India, after detailed examination of the question, have put into effect a programme of assistance to the flying clubs for a period of three years. The question of assistance will be reviewed at the end of the three-year period in the light of data then available in regard to the workings of the clubs and their financial position.

(c) The attention of the Honourable Member is invited to the reply given on the 24th February, 1936, to parts (c) and (d) of Seth Govind Das's starred question No. 738. It is possible that the developments may result in an expansion of the activities of the two Indian feeder Air Services. In present circumstances Government are not in a position to give any financial assistance for the development of other air services.

Prof. N. G. Ranga : In view of the fact that very few Indians can possibly take interest in these private Flying Clubs, have Government considered the advisability of spending large sums of money, or as much as possible, upon more useful schemes in which the Indian masses can take part ?

The Honourable Sir Frank Noyce : I fully appreciate my Honourable friend's question, but I do not think it can be said that Government have been unduly extravagant in this matter.

Mr. Sri Prakasa : Is there anything more important than the Government's flying away ? (Laughter.)

CONCLUSIONS ARRIVED AT BY THE TRANSPORT ADVISORY COUNCIL IN SIMLA.

848. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : (a) Will Government please state why Government did not invite any members of Motor Transport Associations, Motor Bus Associations, Lorry Owners' Associations, Private Motorists Organisations, Motor Manufacturers' or Importers' Association or general public, to attend the recent meeting of the Transport Advisory Council held at Simla ?

(b) Will Government please state whether any instructions or suggestions were given to Provincial Governments with regard to the choice of representatives that were to be sent to this Transport Advisory Council ?

(c) Will Government please state what those instructions were ?

(d) Have Government any intention of obtaining any financial interest in Motor Transport along similar lines to the Government financial interest in Railways ?

(e) Do Government propose to introduce at an early date a Bill which will embody the recommendations of the Transport Advisory Council ?

(f) Did the Transport Advisory Council make any recommendations for the control, regulation or restriction of any transport other than Motor Transport ?

(g) Do Government propose to include in their projected Bill any provision for the control, regulation or restriction of any other form of transport such as hand-carts, bullock carts, cycles, aeroplanes, or water-craft ?

(h) Do Government propose to legislate to control the number of trains which may be run between any stations on any railway ?

(i) Do Government accept the recommendations of the Transport Advisory Council which provides for Government to restrict the numbers of vehicles on the road ?

The Honourable Sir Frank Noyce : (a) Because the Transport Advisory Council is purely an official body concerned with the adjustment of Central and Provincial policy for the co-ordinated development of the various forms of transport.

(b) No. Under the constitution of the Council, only Members or Ministers in charge of Roads or their nominees could represent the provinces.

(c) Does not arise.

(d) No.

(e) Yes. A Bill to amend the Indian Motor Vehicles Act, 1914, for the control of motor transport was, as the Honourable Member is aware, introduced in this House which decided that it should be circulated to elicit public opinion thereon. A revised Resolution on Road Development will be moved during this Session.

(f) and (g). No.

(h) No new legislation is proposed as the machinery for such control exists.

(i) Yes, where considered necessary, but I would remind the Honourable Member that the machinery contemplated for the purpose under the Bill now before the House is not Government but the transport authorities to be set up by Local Governments.

Mr. Sri Prakasa : Will Government make sure that the Bill is circulated to the various Associations mentioned in clause (a) of the question ?

The Honourable Sir Frank Noyce : That is not a matter for the Government : the Bill will be circulated by the Legislative Assembly Department.

Mr. Sri Prakasa : In view of the fact that these Bills are generally not circulated to the persons concerned, will the Honourable Member, with his usual kindness, see that these particular Associations do get copies of this Bill ?

The Honourable Sir Frank Noyce : I should be very glad to comply with my Honourable friend's request if it were in my power to do so, but I should be interfering with a matter which is not my concern.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can make that suggestion to the Legislative Assembly Department.

Prof. N. G. Ranga : Do Government propose to introduce a Bill on the same lines as the Motor Vehicles Bill to control overcrowding on the railways ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Prof. N. G. Ranga : Why not, Sir ?

The Honourable Sir Muhammad Zafrullah Khan : Because that is already regulated by statutory provision.

Prof. N. G. Ranga : Is it not a fact that whenever passengers pull the chain and try to draw the attention of the railway authorities to overcrowding, instead of removing the surplus people in the compartment, these officers try to victimise and brow-beat the passengers who pull the chain ?

The Honourable Sir Muhammad Zafrullah Khan : I repudiate that allegation ; but does this question arise out of the original question.

SUPPLY ON PAYMENT OF APPLICATION FORMS FOR THE POST OF A TYPIST IN THE DIVISIONAL SUPERINTENDENT'S OFFICE, MORADABAD.

849. ***Mr. Mohan Lal Saksena** : (a) Is it a fact that the Divisional Superintendent, East Indian Railway, Moradabad, advertised in the *Leader* for the post of a typist in June, 1936, requiring candidates to apply on forms to be had on payment of one rupee each ? If so, will Government state the reasons for fixing the price of forms so high ?

(b) Are Government prepared to see that the practice is forthwith discontinued ?

The Honourable Sir Muhammad Zafrullah Khan : (a) As regards the first part, Government have no information. With regard to the latter part, I would invite the Honourable Member's attention to Mr. P. R. Rau's reply to Dr. Ziauddin Ahmad's question No. 661 asked on the floor of this House on the 25th September, 1935.

(b) No.

Mr. Mohan Lal Saksena : When I put the last question, I put it in the form "Are Government aware, etc.", and the Government's reply was in the negative. The present question is in the form "Is it a fact etc." and the Government's reply is that they have no information. Why did he not enquire about the matter. The other day, you, Sir, suggested that if questions were put in the form "Is it a fact, etc.", it would be incumbent upon the Government to make enquiries and furnish the information. The present question is in that form and the Honourable Member still says that Government have no information.

The Honourable Sir Muhammad Zafrullah Khan : I have no information with regard to this particular matter ; but if it would satisfy the Honourable Member, I am prepared to admit that usually when applications are called for they have to be on a form which is supplied at a price of one rupee.

Mr. N. M. Joshi : May I ask whether the charge of one rupee for a form of application is not a tax on the unemployed whom the Government are anxious to help ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member might read the reply to which I have referred and then put the question if he is still dissatisfied.

Mr. Mohan Lal Saksena : What was the income from the sale proceeds of the form in this particular case ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member should have asked for such information. Does he really expect that I would have had that information ready even if I had made enquiries as suggested by him ?

Mr. Mohan Lal Saksena : May I ask the Honourable Member to get that information ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir ; unless the Honourable Member puts down a question and the information is readily available.

Mr. Mohan Lal Saksena : In view of the growing unemployment among the middle classes will the Government consider the advisability of reducing the price of the forms or better still to make them free.

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : It is too wide a question.

Mr. Sri Prakasa : Will the Honourable Member consider the desirability of not advertising for any posts at all ?

Mr. N. M. Joshi : Hear, hear. That will be some mercy to the unemployed.

INDIA'S CONTRIBUTION DURING THE GREAT WAR TO GREAT BRITAIN.

850. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state the total amount of money contributed during the Great War by India to Great Britain ?

(b) Will Government be pleased to state the total expenditure borne by Indian Exchequer on account of the War ?

(c) Will Government state the total number of Indians killed during the war, as well as those crippled and maimed ?

(d) Will Government be pleased to state how much money has been spent in giving pensions and allowances to the disabled soldiers and the relatives and dependents of those killed ?

Mr. G. R. F. Tottenham : (a) and (b). A sum of £1,13,600,000 was contributed from the Indian revenues to Great Britain during the Great War. In addition, India bore the ordinary maintenance charges of Indian troops overseas which amounted to £33,200,000.

(c) Just over 62,000 killed and just under 67,000 wounded. The Honourable Member will find further details in chapter V of "India's contribution to the Great War", a copy of which is in the Library of the House.

(d) I am afraid it is impossible to give completely accurate figures, but the Honourable Member may take it that the average cost of War pensions has been about Rs. 115 lakhs a year. The amount is, of course, gradually falling.

Mr. M. Ananthasayanam Ayyangar : Is any further amount due ?

Mr. G. R. F. Tottenham : No, Sir.

Prof. N. G. Ranga : What was the benefit derived by India in return for this, apart from the maintenance of law and order in this country ?

Mr. President (The Honourable Sir Abdur Rahim) : That cannot be discussed during question hour.

INDIA'S CONTRIBUTION TO THE LEAGUE OF NATIONS.

851. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state the total amount of contribution made to the League of Nations by India, as well as the amount spent in sending delegations to the League and the allied organisations ?

(b) Will Government state respective contributions of other countries to the League ?

The Honourable Sir Nripendra Sircar : (a) and (b). The Honourable Member will find the information he requires if he will refer to—

- (1) the statement laid on the table in reply to parts (a) and (b) of Sardar Sant Singh's unstarred question No. 206 on page 1593 of the Legislative Assembly Debates, dated the 26th February, 1936 ;
- (2) the statement laid on the table on the 4th September, 1936, in reply to part (d) of Mr. M. Ananthasayanam Ayyangar's starred question No. 1648 asked on the 16th April, 1936 ;
- (3) pages 1012 to 1013 of the League of Nations Official Journal, 16th year, No. 10 of October, 1935.

Mr. B. Das : With reference to the assurance given by Mr. Spence in the other House that Government would like to see the contribution of India to the League of Nations reduced, will the Honourable Member be pleased to state what action Government have taken so far ?

The Honourable Sir Nripendra Sircar : I submit that does not arise and I have answered this question at great length on the floor of this House as to what we have done, with what response we met, and so on.

Mr. B. Das : Since Mr. Spence made that statement ?

The Honourable Sir Nripendra Sircar : Mr. Spence made that statement only five days ago. What does the Honourable Member expect to be done during these four days ?

INDIAN DELEGATION VOTING AGAINST THE BRITISH DELEGATION IN THE LEAGUE OF NATIONS.

852. ***Mr. Mohan Lal Saksena :** Since the establishment of the League of Nations, has the Indian delegation ever voted against the British delegation ? If so, how many times and on what occasions ?

The Honourable Sir Nripendra Sircar : The Honourable Member's question appears to be based on a misapprehension of the procedure followed in the Assembly of the League. In view of the requirement of Rule 19 of the rules of procedure that a decision of the Assembly shall, except where otherwise expressly provided, be taken by a unanimous vote, the aim of every delegation is to secure unanimity by preliminary discussions with other delegations in committee or otherwise. Votes are occasionally taken in committee but normally by show of hands and the sense in which any particular delegation has voted is not recorded. The Indian delegation has for the most part freedom of action in these preliminary negotiations but all the British Empire delegations endeavour, usually with success, to arrive at unanimity among themselves. At the International Labour Conference, where all decisions are taken by majority vote, India and Great Britain have voted differently on the 45 occasions specified in the statement which I lay on the table.

List of occasions on which India and British voted differently at the International Labour Conference.

Session.	Subject.	Side taken.
1. 20th Session of the International Labour Conference, 1936.	Draft Convention concerning the regulation of certain special systems of recruiting workers.	Britain .. for. India .. neutral.
2. 19th Session of the International Labour Conference, 1935.	Record vote on the placing on the agenda of the next session of the Conference of the question of the reduction of hours of work in the building and civil engineering industry.	Britain .. for. India .. against.
3. Do.	Draft Convention concerning the reduction of hours of work in the building and civil engineering industry.	Britain .. neutral. India .. against.
4. Do.	Draft Convention concerning the reduction of hours of work in glass-bottle works.	Do.
5. Do.	Record vote on the placing on the agenda of the next session of the Conference of the question of holidays with pay.	Britain .. for. India .. neutral.
6. Do.	Draft Convention concerning the establishment of an international scheme for the maintenance of rights under invalidity, old-age, and widows' and orphans' insurance.	Do.
7. 18th Session of the International Labour Conference, 1934.	Draft Convention ensuring benefit or allowances to the involuntarily unemployed.	Do.
8. Do.	Draft Convention concerning workmen's compensation for occupational diseases.	Do.

Session.	Subject.	Side taken.
9. 18th Session of the International Labour Conference 1936.	Draft convention for the regulation of hours of work in automatic sheet-glass works.	Britain .. for. India .. against.
10. 17th Session, 1933.	Six Draft Conventions regarding compulsory insurance.	Britain .. for. India .. neutral.
11. 16th Session, 1932.	The question of placing on the agenda of the next session of the Conference the question of the abolition of fee-charging employment agencies.	Britain .. for. India .. neutral.
12. 14th Session of the International Labour Conference, 1930.	Three recommendations of the regulation of hours of work of salaried employees.	Britain .. for. India .. neutral.
13. Do. ..	Recommendation concerning the Regulation of forced or compulsory labour.	Do.
14. Do. ..	Draft Convention concerning forced of compulsory labour.	Do.
15. 13th Session, 1929.	Inclusion in the agenda of the next session of the International Labour Conference of the question of the protection of seamen in case of sickness.	Do.
16. 12th Session, 1929.	Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships.	Do.
17. Do. ..	Recommendation concerning responsibility for the protection of power-driven machinery.	Do.
18. 11th Session, 1928.	Recommendation concerning the application of minimum wage-fixing machinery.	Do.
19. Do.	Draft Convention concerning the creation of minimum wage-fixing machinery.	Do.
20. 10th Session, 1927.	Recommendation concerning the general principles of sickness insurance.	Do.
21. Do.	Draft Convention concerning sickness insurance for agricultural workers.	Do.
22. Do.	Draft Convention concerning sickness insurance for workers in industry and commerce and domestic servants.	Do.
23. 9th Session, 1926	Draft Convention concerning seaman's articles of agreement.	Britain .. for. India .. neutral.
24. 7th Session, 1925	Recommendation concerning the minimum scale of workmen's compensation.	Britain .. against. India .. neutral.
25. 7th Session, 1925	Recommendation concerning workmen's compensation for occupational diseases.	Britain .. for. India .. neutral.

Session.	Subject.	Side taken.
26. 7th Session, 1925	Draft Convention concerning workmen's compensation for occupational diseases.	Britain .. for. India .. neutral.
27. 6th Session, 1924	Draft Convention and Recommendation concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents.	Do.
28. Do. ..	Proposal to place on the agenda of the 7th Session of the Conference the question of the compulsory disinfection of infected wool and hair.	Britain .. for. India .. against.
29. 3rd Session, 1921	Draft Convention concerning the use of white lead in painting.	Britain .. for. India .. neutral.
29-A. Do. ..	Draft Convention concerning weekly rest in industrial undertakings.	Britain .. against. India .. for.
30. Do. ..	Draft Convention concerning the age for admission of children employed in agriculture.	Britain .. for. India .. neutral.
31. Do. ..	Recommendation concerning living conditions of agricultural workers.	Britain .. against. India .. neutral.
32. Do. ..	Recommendation concerning night work of women in agriculture.	Britain .. for. India .. neutral.
33. Do. ..	Draft Convention concerning workmen's compensation in agriculture.	Do.
34. Do. ..	Draft Convention concerning compulsory medical examination of children and young persons employed at sea.	Britain .. neutral. India .. for.
35. 2nd Session, 1920	Draft Convention limiting working hours on boardship.	Britain .. against. India .. neutral.
36. Do. ..	Draft Convention for establishing facilities for finding employment for seamen.	Britain .. for. India .. neutral.
37. Do. ..	Recommendation concerning unemployment insurance for seamen.	Do.
38. Do. ..	Recommendation concerning the establishment of national seamen's codes.	Do.
39. Do. ..	Draft Convention fixing the minimum age for admission of children to employment at sea.	Do.
40. Do. ..	The inclusion of the subject 'that no person aged less than 17 years may be employed on night watches' on the agenda of the next International Labour Conference.	Britain .. for. India .. against.

Session.	Subject.	Side taken.
41. 1st International Labour Conference, 1919.	Draft Convention fixing the age for admission of children to industrial employment.	Britain .. for. India .. against.
42. Do. ..	Draft Convention concerning unemployment.	Britain .. for. India .. neutral.
43. Do. ..	Recommendation concerning the protection of women and children against lead poisoning.	Do.
44. Do. ..	Recommendation concerning the prevention of anthrax.	Do.
45. Do. ..	Recommendation concerning the establishment of Government health services.	Do.

Mr. Mohan Lal Saksena : In the matter of the Palestine mandate may I know what view the delegation from India took ?

Mr. President (The Honourable Sir Abdur Rahim) : That question cannot be asked.

Prof. N. G. Ranga : When these different delegations from the British Empire try to sit together and arrive at some sort of understanding amongst themselves, do they also try to come to a decision by show of hands or by a majority, or is it completely informal ?

The Honourable Sir Nripendra Sircar : I would not expect that. If four people sit down to exchange ideas round a table, they do not raise their hands.

Prof. N. G. Ranga : In view of the fact that very often British Empire delegations usually vote together and as a body as one delegation, do they try on such occasions to decide these questions by a majority amongst themselves ?

Mr. President (The Honourable Sir Abdur Rahim) : Will it be possible for anybody here to answer that ? Probably the members themselves can only answer.

GRANT OF EXTENSIONS TO SUPERANNUATED PERSONS AND RE-APPOINTMENT OF RETIRED GOVERNMENT SERVANTS.

353. ***Mr. Mohan Lal Saksena :** (a) Is it a fact that circulars have been issued to the various departments under the Government of India, condemning the practice of granting extension to persons who are over age ?

(b) Is it a fact that the District Judge and District Munsiff in Secunderabad (Deccan) Cantonment are retired pensioners nearing 60 years' age and, respectively, drawing pensions of Rs. 800 and Rs. 400, in addition to their respective salaries of Rs. 1,200 and Rs. 500 per month ?

(c) Is it also a fact that T. I. T. Engineer draws a salary of Rs. 1,000 per mensem in addition to his pension of Rs. 1,000 per month ?

(d) Will Government state their respective ages and their present state of health ?

(e) Will Government state the reasons for appointing these retired officials, and who was responsible for their appointments ?

(f) Will Government state when they are going to retire ?

(g) In view of the increased unemployment, do Government propose to issue a circular that as a general rule no retired pensioner should be appointed to a Government post ?

Sir Aubrey Metcalfe : (a) No.

(b) The District Judge and District Munsif, Secunderabad, are retired officers drawing pensions of Rs. 491-10-8 and Rs. 338-4-0 each in addition to respective salaries of Rs. 1,050 and Rs. 450.

(c) The Town Improvement Trust Engineer draws pay in the scale of Rs. 1,200—50—1,400 in addition to his pension of Rs. 586 per month.

(d) The ages of the District Judge, District Munsif and Town Improvement Trust Engineer are 58, 55 and 56, respectively. All three officers are in good health.

(e) All three posts require experience and as they are isolated appointments there are only two courses to be followed :

(i) To borrow officers from the provinces.

(ii) To re-employ retired officers.

The latter course is the more economical as the appointments are deemed temporary and there are no pension nor Provident Fund liabilities. The Resident at Hyderabad is responsible for the appointments.

(f) The officials have already retired from Government service. Their continuance in their present appointments is contingent on the efficient performance of their duties.

(g) No.

Mr. Mohan Lal Saksena : With reference to clause (e), is it not a fact that the experience of these retired officers will be available only for a short time ?

Sir Aubrey Metcalfe : I have explained that they will be available as long as the officers perform their duties efficiently.

Mr. Mohan Lal Saksena : If younger officers are appointed, they may not of course have sufficient experience in the beginning, but will they not be available for a longer period than these retired officers who are appointed after they retire from other posts.

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of argument.

Qazi Muhammad Ahmad Kazmi : Is there any age limit for these officers ?

Sir Aubrey Metcalfe : No, Sir. I have explained that they will be employed as long as they can perform their duties efficiently.

Qazi Muhammad Ahmad Kazmi : Will there be any medical examination of these officers after some period ?

Sir Aubrey Metcalfe : Undoubtedly.

Mr. M. Ananthasayanam Ayyanger : What is the normal term for which they are expected to work ?

Sir Aubrey Metcalfe : That is an impossible question to answer. I think I have given all the information that is required on the subject.

Mr. Sri Prakasa : With reference to the reply to clause (d), is it not a fact that most persons, who go in for Government service in India, return their age as less than what it actually is ? And with regard to part (n) of clause (d), may I ask when the last medical examination as to their health took place ?

Sir Aubrey Metcalfe : I should require notice of that question.

RESTRICTION ON THE POSSESSION AND CARRYING OF SWORDS AND SWORD-STICKS IN THE DELHI PROVINCE.

854. ***Mr. M. Asaf Ali :** (a) Will Government state if it is a fact that there is no restriction on the possession and carrying of swords or sword-sticks in the Punjab and the United Provinces, but in the Delhi Province the possession or carrying of swords or sword-sticks is an offence ? If so, why ?

(b) Will Government state (i) how many persons have been convicted of unlawful possession of swords and sword-sticks in the Delhi Province since January, 1936, and (ii) how many of those convicted belonged to places outside Delhi Province, where there are no restrictions on the possession and carrying of swords ?

(c) Are Government prepared to remove this restriction in Delhi Province ? If not, why not ?

The Honourable Sir Henry Craik : *Part (a).* In the Punjab there are no restrictions on the possession and carrying of swords, but sword-sticks are not exempt. In the United Provinces under entry 1 of Schedule II to the Indian Arms Rules, 1924, swords and sword-sticks are exempted from all the prohibitions and directions contained in the Indian Arms Act, 1878, but under the proviso in column 3 against that entry the Local Government have power to retain all or any of the prohibitions and directions contained in the Act in respect of these arms. The Government of India have no information as to whether the Local Government have retained any such prohibitions or directions. In Delhi the possession or carrying of swords or sword-sticks without a licence is an offence. The rules are not uniform in all the provinces because the question of restriction on the possession and carrying of arms is one for determination in accordance with local conditions.

Part (b). During the period 1st January to 31st August, 1936, 91 persons were convicted in Delhi under section 19 of the Indian Arms Act, 1878, for illegal possession of swords and sword-sticks, of whom ten persons came from the Punjab, 39 from the United Provinces, seven from the Central Provinces, 31 from Indian States and four from Delhi Province.

Part (c). No. Because in the opinion of the Local Government to do so would be incurring unnecessary risk in the event of disturbances in Delhi.

PAYMENTS MADE TO CERTAIN AIRWAYS.

355. *Mr. M. Asaf Ali : Will Government please state what payments have been made to the following concerns during 1933-34, 1934-35 and 1935-36 :

1. Indian Transcontinental Airways, Ltd.,
2. Indian National Airways, Ltd.,
3. Tata Sons, Ltd. (Aviation Department), and
4. Himalayan Airways, Ltd., for
 - (i) refund of duties on petrol and spare parts of aircrafts, etc.,
 - (ii) carriage of mails by air, and
 - (iii) subsidy for carriage of mails ?

The Honourable Sir Frank Noyce : I lay on the table a statement furnishing the required information.

Statement.

	(i) Payments made on account of refund of duties on petrol and spare parts of aircrafts, etc.			(ii) Payments made for carriage of mails by Air.			(iii) Payments made as subsidy for carriage of mails, 1933-34, 1934-35 and 1935-36.
	1933-34.	1934-35.	1935-36.	1933-34.	1934-35.	1935-36.	
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Indian Transcontinental Airways, Ltd.	73,585	1,08,078	2,08,648	14,278	29,481	57,059	Nil.
2. Indian National Airways, Ltd.				2,503	39,944	83,204	
3. Tata Sons, Ltd. (Aviation Department) . . . . .	..	Nil	..	1,35,708	2,13,915	2,82,352
4. Himalayan Airways, Ltd.				Nil	Nil	Nil	

NOTE.—The amounts shown against Indian Transcontinental Airways, Limited, under item (ii) represent payments made by the Indian Posts and Telegraphs Department for the carriage by air between Karachi and Rangoon only of (a) inland mails, (b) outward foreign mails despatched by Indian Post Offices to Karachi for inclusion by the Karachi Office in its direct mails for foreign offices of exchange, (c) inward foreign mails received in 'Karachi Forward' bags by the Imperial Airways service, (d) inward foreign mails delivered at Karachi and Rangoon by the K. L. M. and Air France aeroplanes or received by land or sea routes for conveyance by air in India.

As regards air conveyance charges in respect of all closed mails received and despatched by the Offices on the Indian Transcontinental Airways' route from and to offices of exchange in foreign countries by the joint Imperial Airways and Indian Transcontinental Airways service, these are paid to the British Post Office by the Indian Post Office in respect of the outward closed mails and by the despatching administrations concerned in respect of the inward closed mails. This is according to an agreement entered into between the British Post Office and the Indian Posts and Telegraphs Department. The British Post Office pays Imperial Airways for all mails conveyed and Imperial Airways share the payment with the Indian Transcontinental Airways.

AEROPLANES USED BY GOVERNMENT.

856. *Mr. M. Asaf Ali : (a) Are Government aware that the Indian National Airways have not been using their Avro Ten for the last two years, nor have they obtained the requisite certificate of its airworthiness ?

(b) Is it a fact that the Viceroy's old aeroplane is nearly four years' old, and its depreciated value has gone down by 75 per cent. or so ?

(c) Is it being maintained by the Indian National Airways at an annual cost of over 30,000 ?

(d) How many hours has it been used by Government during the past four years, and how many hours has it been used by Government during the current year, or since the purchase of the new *Star of India* ?

(e) Have Government considered whether it would not be more economical to dispose of it ?

(f) (i) How much has the *Star of India* cost, (ii) how much does its maintenance cost, and (iii) how many hours has it been used by Government during the current year ?

(g) How do Government justify the purchase of two aeroplanes for the Viceroy, and on what ground is the heavy cost of their maintenance justified ?

(h) If Government must maintain these machines, are they prepared to inquire from the Aeronautical Training Centre at what cost they can maintain them for Government ?

The Honourable Sir Frank Noyce : (a) Government are not concerned with the use to which Indian National Airways, Limited, may or may not put a particular aircraft of their fleet.

(b) The Government Avro X has been in use since December, 1931, and Government are aware that its value has depreciated considerably.

(c) An annual sum of Rs. 31,800 is paid to Indian National Airways, Limited, for the maintenance and operation of the two Government aircraft, viz., the *Star of India* and the Avro X, Rs. 21,000 being the sum paid on account of the former and Rs. 10,800 on account of the latter.

(d) The Avro X has flown 456 hours on Government business during the past four years, and 66 hours during the current year. It has flown 129 hours on Government business since the purchase of the *Star of India*.

(e) The Avro X has practically no disposable value. Provided the aeroplane can be sufficiently used it is worth continuing its use for Government purposes.

(f) (i) Rs. 1,40,133.

(ii) Rs. 21,000.

(iii) 52 hours.

(g) One aeroplane only has at any time been specially assigned for use by His Excellency the Viceroy. The Avro X aeroplane at present in use was originally purchased when the Government of India proposed to run a State Air Service. This proposal suffered in the general retrenchment resulting from the 1930 crisis, and Government were left with this aeroplane on their hands, which was then placed at the disposal of His

Excellency the Viceroy because it was found that when His Excellency's tours were undertaken by air, savings on police expenditure could be effected, which more than offset the additional cost of air transport. As the Avro X was found not to be particularly suited for the conveyance of His Excellency (on account of its inadequate carrying capacity and performance) the *Star of India* was purchased and delivered towards the end of 1934. The Avro X was then made available for general Government purposes. Government are not prepared to accept the statement that the cost of maintenance of the *Star of India* has been unduly heavy or is unjustifiable.

(h) The existing arrangement for the combined operation of the two machines is probably the most economical which can be made with a civil firm in view of the special conditions which must attach to the operation and maintenance of His Excellency's aeroplane. But the Government of India have the question of the future arrangements for the maintenance of the two aircraft under consideration.

PLATFORM TICKETS FOR PERSONS GOING TO RAILWAY STATIONS TO RECEIVE VICEROYS AND GOVERNORS.

551. **Mr. Sri Prakasa :** (a) Are persons who go to railway stations to receive Viceroys and Governors required to take platform tickets where the taking of such tickets is required by law ? If not, under what law are they exempted ?

(b) How many platform tickets were sold recently at the Benares Cantonment Railway Station when the Viceroy and the Governor of the United Provinces, respectively visited Benares ?

(c) Has the Superintendent of Police any authority over Station Masters as regards the number of persons that should be admitted to a railway platform on any particular occasion, and can he order that so many and no more platform tickets are to be sold for the same ?

(d) Is it a fact that the Superintendent of Police, Benares, fixed the number on the occasion of the last visit of Mahatma Gandhi to Benares and that the Station Master felt compelled to follow these instructions ?

(e) Was any such restriction imposed on the occasion of the visit of the Viceroy and the Governor of the United Provinces to Benares ?

(f) Who gives permission for any special decoration of railway premises on any particular occasion ?

(g) Does the Railway bear any part of such expenses ? If so, under what head is that expense debited and under what rule is it incurred ?

The Honourable Sir Muhammad Zafrullah Khan : (a) At stations at which platform tickets are issued, any person desiring admission to the platform to receive a high official or any other person is required to take a platform ticket unless the Railway Administration in the exercise of its discretion decides to admit certain persons without such tickets.

(b), (d) and (e). Government have no information and it would serve no useful purpose to obtain it.

(c) The Superintendent of Police as such has no authority, but, in view of his responsibility, his advice may be sought for and generally followed in such cases.

(f) The decision as to whether any special decorations should be arranged for, by whom and at whose expense, rests with the Divisional Superintendent or other higher authority.

(g) So far as Government are aware, no additional expenditure is incurred in such cases.

Pandit Lakshmi Kanta Maitra : May I know from the Honourable Member if I understood him to say that the purchase of platform tickets is a matter mainly in the discretion of the Station Master ?

The Honourable Sir Muhammad Zafrullah Khan : I did not say that.

Mr. Sri Prakasa : Under what rule is this discretion exercised ? And why does the Government think that it will serve no useful purpose to get the information I have asked for, in view of the fact that there is a great deal of heart-burning owing to the differentiation made by railway authorities in the case of those who go to receive Viceroy and Governors, and those who go to receive persons, like Mahatma Gandhi, who may be greater than those persons ?

The Honourable Sir Muhammad Zafrullah Khan : That is a question of argument.

Pandit Lakshmi Kanta Maitra : Does the question as to whether persons or class of persons should be exempted from the purchase of platform tickets depends on the railway administration to decide ?

The Honourable Sir Muhammad Zafrullah Khan : Yes ; that is what I said.

Mr. Sri Prakasa : Under what law is this discretion exercised ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice.

Mr. Sri Prakasa : I want to know who pays for the decoration : the Honourable Member says that the railway does not pay, but that the divisional inspector or some other functionary orders such decorations.

The Honourable Sir Muhammad Zafrullah Khan : If Government does not pay, surely I can have no information as to who pays.

Mr. Sri Prakasa : This is an important matter, Sir. Does the Government approve of Divisional Superintendents ordering decorations at the expense of others ?

The Honourable Sir Muhammad Zafrullah Khan : Most certainly, if somebody else is willing to go to that expense.

Pandit Lakshmi Kanta Maitra : Is it not a fact that in such decorations the railway administration gives all the signals and other decorations from the railway administration itself ?

The Honourable Sir Muhammad Zafrullah Khan : Signals have nothing to do with decorations.

Pandit Lakshmi Kanta Maitra : I mean fog signals, flags, festoons, etc.

The Honourable Sir Muhammad Zafrullah Khan : Fog signals have nothing to do with decorations.

Pandit Lakshmi Kanta Maitra : They are used for these ceremonial occasions, even when there is no fog : that is the fun of it.

Mr. Sri Prakasa : May I know whether the divisional inspector allows these decorations on application or whether he orders the decorations before any applications come ?

The Honourable Sir Muhammad Zafrullah Khan : There was no reference to any divisional inspectors in my answer.

Mr. Sri Prakasa : Did not the Honourable Member refer to divisional somebody—I did not catch the exact designation. The Honourable Member need not be so punctilious !

The Honourable Sir Muhammad Zafrullah Khan : I have got to be very careful with this particular Honourable Member as he is so particular about the language used in these matters. I do not want to be caught over giving a reply to a question which has not been put.

Mr. Sri Prakasa : May I know the exact designation of the divisional somebody he referred to ?

The Honourable Sir Muhammad Zafrullah Khan : May I read out that particular portion of the reply ?

Mr. Sri Prakasa : The noun after that adjective will do for me.

The Honourable Sir Muhammad Zafrullah Khan : I said :

“(f) The decision as to whether any special decorations should be arranged for, by whom and at whose expense, rests with the Divisional Superintendent or other higher authority.”

Mr. Sri Prakasa : May I ask whether this Divisional Superintendent orders these decorations before any applications go to him of persons anxious to decorate at their own expense ; or whether he decides only after finding himself or discussing with the officers the relative merits of various applicants who are anxious to decorate railway stations for the reception of such worthies ?

The Honourable Sir Muhammad Zafrullah Khan : I have no information.

Sir Muhammad Yakub : The press report says that Pandit Jawahar Lal Nehru travelled in a decorated train—a special train—to Madras. Will Government be pleased to state if the train was decorated under orders of the Government or of any individual superintendent ?

(Interruptions.)

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Members (on the left) should not interfere in that way.

Some Honourable Members on the Congress Benches : At the cost of the people.

Sir Muhammad Yakub : May I have an answer to my question ?

The Honourable Sir Muhammad Zafrullah Khan : I said I have no information.

LOADING AND UNLOADING WORK OF THE RAILWAYS DONE BY THE PORTERS.

858. *Mr. Sri Prakasa : (a) Is it a part of the contract with porters at railway stations that they are to do the loading and unloading work of the railway free of all costs ?

(b) Are Government aware that sometimes even such porters are taken away who are actually in charge of a passenger's luggage, just before the arrival of the train, greatly inconveniencing passengers who find no porter available to help them to put the luggage in the train itself ?

(c) Are Government prepared to instruct the railways that this practice should not be indulged in, and are Government prepared to suggest to the railways that porters doing railway work should be paid at a prescribed rate ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (c). The practice in this respect is not uniform. I would refer the Honourable Member to the information placed on the table of the House on the 13th March, 1936, in connection with Seth Govind Das's question No. 684 asked on the 25th September, 1935.

(b) No. If any such cases were brought to the notice of the responsible authorities, disciplinary action would be taken against those concerned.

Mr. Sri Prakasa : What will be the situation of the passenger who in the very circumstances of the case will lose his train if he tried to bring the matter to the notice of the railway authorities ? In this connection may I ask whether Government will consider the desirability of having salaried porters as they have in other parts of the world ?

The Honourable Sir Muhammad Zafrullah Khan : There are different arrangements on different railways.

Mr. Mohan Lal Saksena : May I know if it is a fact that at certain stations porters have to load and unload railway parcels free of charge ?

The Honourable Sir Muhammad Zafrullah Khan : It depends on the arrangements between the railways and the contractor who supplies the labour.

Mr. Mohan Lal Saksena : May I know whether that does not come within the definition of forced labour ?

The Honourable Sir Muhammad Zafrullah Khan : No. If the railway authorities have an arrangement with the contractor whereby they pay for all the labour involved, I am afraid they cannot look further into the matter.

Prof. N. G. Ranga : Is it is not a fact that porters are employed by the railways themselves ?

The Honourable Sir Muhammad Zafrullah Khan : No ; not always.

Prof. N. G. Ranga : In view of the fact that these people are very low paid both by the contractors and by the railways, will Government consider the advisability of introducing a uniform practice by stipulating certain payments to be made by passengers who make use of these people ?

The Honourable Sir Muhammad Zafrullah Khan : The question of payment by passengers does not arise, but I believe the rates are fixed.

Mr. Mohan Lal Saksena : Am I to understand that it is not the function of Government to see that nobody is compelled to do forced labour ?

The Honourable Sir Muhammad Zafrullah Khan : I said there was no question of forced labour at all here. Government pays for this labour.

Mr. Mohan Lal Saksena : Are the Government aware that these porters are not paid anything for loading and unloading parcels at stations ? Am I correct in thinking that the Government themselves connive at this practice ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member must give notice of that.

Qazi Muhammad Ahmad Kazmi : Will the Honourable Member be pleased to have an instruction issued to the railways that while porters are engaged in carrying luggage of passengers their services should not be utilised for the loading and unloading of railway goods ?

The Honourable Sir Muhammad Zafrullah Khan : I have said that there is not the slightest warrant for that practice and if that practice exists wherever it is discovered disciplinary action will be taken.

Pandit Krishna Kant Malaviya : May I know if the Honourable Member is convinced that the contractors pay these porters ?

The Honourable Sir Muhammad Zafrullah Khan : I have no information on that.

Pandit Krishna Kant Malaviya : Will Government make inquiries whether these porters are paid by these contractors ?

The Honourable Sir Muhammad Zafrullah Khan : No : I will not inquire into a matter where the question is entirely one between the contractor and the porters.

CONVERSION OF THE DEPRESSED CLASSES BELONGING TO HINDUISM TO ANY OTHER RELIGION.

859. **Mr. S. Satyamurti :** Will Government be pleased to state whether they have at any time decided to encourage or to discourage the conversion of depressed classes belonging to Hinduism to any other religion ?

The Honourable Sir Nripendra Sircar : No.

SHORT NOTICE QUESTION AND ANSWER.

ACCIDENT AT THE NILURIPATHRA COLLIERY IN THE JHARIA COALFIELD.

Mr. Ram Narayan Singh : Will Government state :

12 NOON.

- (a) Whether they are aware of the tragedy and mishap in the Jharia mines reported in the *Hindustan Times* of today's date and whether it is true ;

(b) what are the full facts of the casualties ; and

(c) what is the reason for these successive mishaps in these mines ?

The Honourable Sir Frank Noyce : (a) Government have received a report of the accident which occurred at the Niluripathra colliery in the Jharia coalfield on the 29th September. The facts are that a partial collapse of the workings of the colliery occurred accompanied by an air blast which temporarily deranged the winding arrangements. As soon as the winding arrangements were restored all the persons underground numbering 22 were safely brought to the surface.

(b) None of the persons below ground was injured, but, as a result of the collapse of a building on the surface, four persons were killed and two injured.

(c) It is impossible to assign any common cause for all the accidents which have recently occurred in this field, but unsatisfactory methods of mining in the past have enhanced the risks attendant on the extraction of coal. The reason for the collapse of the workings in the present case has not yet been ascertained, but a departmental enquiry is being made.

Mr. B. Das : In view of the present accident at Jharia, due to depillaring, what steps are Government taking to prevent this depillaring in coal mines, particularly in the Jharia area ?

The Honourable Sir Frank Noyce : The accidents have been due to different causes and they are not always due to the cause mentioned by my Honourable friend.

Mr. B. Das : The last one was due to that.

The Honourable Sir Frank Noyce : That may be, but the accidents are due to different causes and they are not always due to the cause mentioned by my Honourable friend. As regards the steps that Government are taking, I would remind my friend of the temporary regulations which have recently been issued and also of the proposed appointment of a committee to examine the whole question during the coming cold weather.

Mr. B. Das : In view of the fact that this recent accident in the Jharia coalfields happened after the temporary regulations were framed and in view of the fact that the last accident was due to depillaring what action are the Government Mining Inspectors taking to prevent depillaring of coal mines and prevent accidents thereby ?

The Honourable Sir Frank Noyce : I can only refer my Honourable friend to the recent temporary regulations which deal with this question of depillaring and which give the mining staff greater powers in that respect than they formerly had. I would again repeat that the whole question of safety as well as of coal conservation is to be examined by a committee during the coming cold weather.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Secretary of the Council of State :

" I am directed to inform you that the Council of State has, at its meeting held on the 6th October, 1936, agreed without any amendment to the Bill further to amend the Cantonments Act, 1924, for certain purposes, which was passed by the Legislative Assembly at its meeting held on the 28th September, 1936."

THE INDIAN COMPANIES (AMENDMENT) BILL—*concl'd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee. We are dealing with amendments to the proposed section 277G.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : I move :

“ That in clause 111 of the Bill, in the proposed section 277G, after the words ‘ managing agent ’ the words ‘ other than a banking company ’ be inserted.”

The result will be that section 277G will read as follows :

“ No banking company shall after the expiry of two years from the commencement of the Indian Companies (Amendment) Act, 1936, employ a managing agent other than a banking company for the management of the company.”

I shall be very brief. I am not objecting to the principle that a banking company should not be run by managing agents. What I am seeking, however, to do is to make an exception where a banking company is the managing agent of another banking company.

Mr. B. Das (Orissa Division : Non-Muhammadan) : As for instance ?

Sir H. P. Mody : One of the most important banks in this country, the Central Bank of India, is running another bank today, and has been doing so for a number of years, namely, the Union Bank of India. The Union Bank, I venture to think, is being conducted on very sound principles, and, what is more, it derives advantage from all the widespread ramifications of the Central Bank. It enjoys all the facilities which the Central Bank of India with its branches all over the country provides, in respect of collection of bills and other matters, and I submit that there is nothing objectionable to one banking company being the managing agent of another banking company. The Banking Enquiry Committee, while it made the recommendation that it was objectionable that banks should be run by managing agents, clearly indicated that this applied to individuals or firms, and that it did not have banking companies in mind. I venture to think that my amendment should meet with no opposition. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, in the proposed section 277G, after the words ‘ managing agent ’ the words ‘ other than a banking company ’ be inserted.”

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I oppose the amendment. I see no reason why an exception should be made in the case of a banking company. A private firm, consisting of two or three persons, or, say, even of ten persons, may get itself registered as a private banking company and then work as the managing agent of another banking company. What is there to prevent any three or four individuals, or for the matter of that, two individuals, brothers and cousins, joining together and getting themselves registered as a banking company ?

Sir H. P. Mody : There is no bar at the present moment, and this contingency which my Honourable friend thinks is a serious one—has it ever happened ? Anything can happen, for that matter.

Pandit Govind Ballabh Pant : Anything can happen, yes. We were told, when we argued the other day that many things did not happen, that they would happen under the new regime that was now being inaugurated. If you do not want to put a stop to the system of managing agency in the case of banks, frankly withdraw the provision that is there. But if you do think that the system of managing agency does not suit banks and banking companies, then I submit that no loophole should be provided for getting over the provision embodied in the Bill. My Honourable friend does not even say a public company. If he had any apprehensions about any particular bank today and if he had brought an amendment to the effect that an exception should be made in the case of any particular bank and if the Government were satisfied that it was necessary and essential in public interests that such an exception should be made, it would have been perhaps proper to consider the case of that particular bank. But to insert a provision of this kind by virtue of which the general provision that is being put in may be made valueless seems to me to be dangerous. Sir, I oppose the amendment.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I have no objection to the amendment for this reason that the managing agent which is a banking company will be subject to all the restrictions and the control which have been introduced under this Act.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, in the proposed section 277G, after the words ‘ managing agent ’ the words ‘ other than a banking company ’ be inserted.”

The motion was adopted.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 111 of the Bill in sub-section (3) of the proposed section 277J for the word ‘ twenty ’ the word ‘ ten ’ be substituted.”

It is laid down in this clause that 20 per cent. shall be earmarked for reserve fund. I propose ten. Otherwise it will be very difficult for small banks. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill in sub-section (3) of the proposed section 277J for the word ‘ twenty ’ the word ‘ ten ’ be substituted.”

Mr. Susil Chandra Sen (Government of India : Nominated Official) : I oppose this amendment and for this reason. As I indicated to the House, I have had occasion to deal in my province with at least 200 indigenous banking companies which have now been reduced to the verge of bankruptcy. The reasons, when investigated showed the thorough unbusinesslike manner in which their business was conducted. At one time during the period of 1914 to 1922, they made immense profits. They declared dividends to the extent of 50 per cent. and in some cases to the extent of 75 per cent. but no reserves were kept for the rainy days with the result that when the time of difficulty came and with the fall of rental value and the economic crisis they were reduced to the verge of bankruptcy. But for section 153 there would have been a catastrophe in the province of Bengal. I am sure my friend

who comes from that province has felt it. The provision in section 277G is very moderate. It only means that out of the net profits you leave out 20 per cent. by way of reserve. Then again why is it to be kept in reserve? The reserve is meant to be utilised in cases of emergency. Therefore, Sir, the companies do not lose anything. The shareholders may get a lesser rate of dividend. But which is the preferable course to keep the company on a better financial footing or to give the shareholders a better rate of dividend. I submit there is no case made out for reduction of 20 to 10.

Mr. Akhil Chandra Datta : Is not the collapse of the banks in Bengal due to depression. If 20 had been reserved instead of ten, does he really think that the collapse would not have happened?

Mr. Susil Chandra Sen : If not all, most of them would have been saved.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill in sub-section (2) of the proposed section 277J for the word ‘ twenty ’ the word ‘ ten ’ be substituted.”

The motion was negatived.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadian Rural) : Sir, I move :

“ That in clause 111 of the Bill, at the end of sub-section (2) of the proposed section 277J, the following be added :

‘ or keep deposited in a special account to be opened by the company for the purpose in a scheduled bank as defined in clause (e) of section (2) of the Reserve Bank of India Act, 1934 ’.”

The amendment explains itself, and I need say nothing in its support.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, at the end of sub-section (2) of the proposed section 277J, the following be added :

‘ or keep deposited in a special account to be opened by the company for the purpose in a scheduled bank as defined in clause (e) of section (2) of the Reserve Bank of India Act, 1934 ’.”

The motion was adopted.

Mr. Akhil Chandra Datta : Sir, I move :

“ That in clause 111 of the Bill, to sub-section (2) of the proposed section 277J, the following proviso be added :

‘ Provided that the provision of the sub-section shall not apply to a Banking Company incorporated before the commencement of the Indian Companies (Amendment) Act, 1936, till after the expiry of two years from the commencement of the said Act ’.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, to sub-section (2) of the proposed section 277J, the following proviso be added :

‘ Provided that the provision of the sub-section shall not apply to a Banking Company incorporated before the commencement of the Indian Companies (Amendment) Act, 1936, till after the expiry of two years from the commencement of the said Act ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment No. 2 on List No. 13 by Mr. Bajoria.

The Honourable Sir Nripendra Sircar : Sir, I have an objection to make. It is true I came to an understanding with the Honourable the Leader of the Opposition. That understanding was this. If notice of an amendment had been given on Monday, I would have raised no objection if it had reached us on Tuesday, because ordinarily it would have come up on Wednesday. But these are amendments on which notice was given on Tuesday.

Mr. President (The Honourable Sir Abdur Rahim) : That is yesterday.

The Honourable Sir Nripendra Sircar : Yes, Sir. There is no reason why the rule for two days' notice should be waived in that connection. This is going on from the 8th of September.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot suspend the Standing Order.

Mr. President (The Honourable Sir Abdur Rahim) : Then we come to No. 234.

Mr. F. E. James (Madras : European) : May I submit, Sir, that 234 should not be moved until 242 has been disposed of ?

Mr. Akhil Chandra Datta : I agree.

Mr. President (The Honourable Sir Abdur Rahim) : Then, we come to 235.

Mr. Akhil Chandra Datta : I don't move it.

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, I move :

“ That in clause 111 of the Bill, the proposed section 277L be omitted.”

Sir, I should like to say before I give my reasons for moving this amendment that we are entirely opposed to Banks being holding companies. As Honourable Members are aware, a holding company has been defined in clause 2 (2) of the Bill, to include a company where the assets of the company consist in whole or in part of shares in another company, whether held directly or through a nominee, and whether that other company is a company within the meaning of this Act or not, and (a) the amount of the shares so held is at the time when the accounts of the holding company are made up more than fifty per cent. of the issued share capital of that other company, etc., etc. Now, if Honourable Members will turn to 277E, they will find there in sub-section (4) it is stated that “ the promoting, effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, Municipal or other loans, or of shares, stocks, debentures,” etc., etc. Again, sub-section (6) says “ promoting or financing or assisting in promoting or financing any business, undertaking or industry, either existing or new,” etc., etc. Again sub-section (9) says :

“ acquiring and holding and generally dealing with any property, and any right, title or interest in any property movable or immovable which may form part of the security,” etc., etc.

Sir, it may easily happen that, as recommended by the Banking Committee, Banks in this country may underwrite issues of shares of industrial companies and they may be left with 51 per cent. or more of these issues on their hands, in which case they will immediately come within the scope of the definition of a 'subsidiary', and thus 277L would apply to them and they may be penalised, especially as I see it is proposed in my friend Mr. Datta's amendment No. 234 that they should be penalised. It is for that reason, purely on technical grounds, that I move this amendment. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 111 of the Bill, the proposed section 277L be omitted."

Mr. Susil Chandra Sen : Sir, I am afraid I have to oppose this amendment. This amendment was intended to guard against a banking company forming any subsidiary company or holding shares in a company other than a banking company which would bring it within the category of a holding company in relation to such company. My friend referred to the case which is really in the nature of an accident, but I think even in such a case it is within the power of the banks to prevent such accidents. The banks may sell off such shares instead of acquiring them. I have not yet heard however from my friend anything against the principle underlying this subsection, and I don't think that any case has been made out for the deletion of this clause. Sir, I oppose the amendment.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : May I ask one question, Sir ? The Honourable Member will remember that there was a considerable amount of discussion as to whether a bank should be allowed to hold shares in any company. Here if a bank is not allowed to hold shares in a subsidiary company, it may amount to the same thing, namely, the prohibition of a bank holding shares in a company. Suppose there is a company which has a subsidiary company, and that subsidiary company has shares of its own. By this section you will prohibit the bank from holding any shares in that subsidiary company. I can understand the prohibition against forming a subsidiary company, but I am unable to understand the prohibition against holding shares in a subsidiary company. Those shares need not be 5 per cent. the total number of shares of that subsidiary company. Now, suppose a bank lends some money to a subsidiary company on the security of the shares of that subsidiary company and has to foreclose, which means it will have to own those shares. I will ask the Honourable Member to consider the question from this point of view. Forming a subsidiary company is quite a different thing from holding shares in a subsidiary company. In effect, you prohibit banks from lending.

Mr. Susil Chandra Sen : With your permission, Sir, I will answer that question. My friend is entirely in error. The only prohibition is firstly against a banking company forming a subsidiary company other than a banking company. The second thing is in regard to holding shares in any other subsidiary company, which is not a banking company. The subsidiary companies have been defined in the Act, and it is only *vis-a-vis* the holding company that the term "subsidiary company" is

[Mr. Susil Chandra Sen.]

applicable. Therefore the apprehension of my friend that the banks cannot hold shares in any company is groundless.

Sir Cowasji Jehangir : Subsidiary companies have shares of their own. The principal company may mortgage those shares to a bank. I know of several instances where a bank has lent money to the principal company on the security of the shares of the subsidiary company. Then what is going to happen ?

The Honourable Sir Nripendra Sircar : They can stop it. That is very exceptional business.

Sir Cowasji Jehangir : If I may appeal to the Honourable the Law Member, it is not exceptional business. I can give you several instances where a bank has lent money on the security of the shares of a subsidiary company. They may have lent money to the principal company, but the security was the shares of the subsidiary company. This will prohibit it. I can understand the prohibition against a bank starting a subsidiary company. That might be prohibited, but you might in some cases prevent a bank from doing business on the security of the shares of a subsidiary company. I would suggest omitting "holding subsidiary shares" and only restricting the clause to prohibition against forming subsidiary companies.

Honourable Members : The question may now be put.

Mr. Sami Vencatachellam Chetty (Madras : Indian Commerce) : Sir, so long as under section 277E a banking company is allowed to do the various items of business described, among which No. 9 is "acquiring and holding and generally dealing with any property and any right, title or interest in any property movable or immovable which may form part of the security for any loans or advance or which may be connected with any such security", to that extent, I suppose, a banking company is protected in the matter of buying the shares of any company whether it is a subsidiary company or a holding company. So long as it is not directly promoting a subsidiary company, I think sub-clause (9) of section 277E ought to be a sufficient protection against it being misunderstood as promoting a subsidiary company.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 111 of the Bill, the proposed section 277L be omitted."

The motion was negatived.

Mr. T. Chapman-Mortimer : Sir, I move :

"That in clause 111 of the Bill, for the proposed section 277L the following be substituted :

'277L. A banking company shall not form or hold shares in any subsidiary company except a subsidiary company formed for one or more of the purposes set out in section 277E.'

Sir, it is a matter of great importance to many banks and a matter of practical business convenience that they should be able to form trustee companies when they are handling the business of their clients, and if Honourable Members will turn to 277E (10) and (11), they will find there that that is one thing they do. The usual practice is

for the bank to form a subsidiary company to handle their clients' business when they are undertaking or executing a trust or acting for the administration of an estate and so on. They form a company with a nominal capital, and that of course appears in their balance-sheet as one of their assets. There is nothing really to be concealed ; they are handling purely the business of their clients, and it is a matter of fact of a practical business administration. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, for the proposed section 277L the following be substituted :

‘ 277L. A banking company shall not form or hold shares in any subsidiary company except a subsidiary company formed for one or more of the purposes set out in section 277E.’ ”

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muham-madan Rural) : Sir, I oppose this, unless the matter is amended it is of course entirely for them to consider.

“ A banking company shall not form or hold shares in any subsidiary company except a subsidiary company formed for one or more of the purposes set out in section 277E.”

Sir, if what is wanted is this,—“ except a subsidiary company whose principal object is the one defined in 277E along with one or the other of the objects mentioned ”, unless that is done, you practically destroy 277L, if this is passed.

Sir Leslie Hudson (Bombay : European) : Sir, I am afraid that amendment, suggested by the Honourable the Leader of the Opposition, would destroy entirely the object we have in view. There is no trying to get behind the Act, but obviously a nominee company which is a subsidiary company of the bank cannot have its principal business that of issuing cheques and so forth.

Mr. Bhulabhai J. Desai : Otherwise it is not a banking company.

Sir Leslie Hudson : But the banking company itself forms a nominee company to look after the interests of its clients. Its clients' shares and securities are held by the bank for the collection of dividends and so forth. The shares remain in the name of the nominee. The names of the bank's representatives are continually changing and the object is that you should have a nominee company which should handle the business of the bank's clients.

Mr. Bhulabhai J. Desai : Amendment No. 238 I appreciate, but not 237 ; otherwise you are really destroying 277L.

Mr. T. Chapman-Mortimer : Sir, I beg leave of the House to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. T. Chapman-Mortimer : Sir, I move :

“ That in clause 111 of the Bill, for the proposed section 277L the following be substituted :

‘ 277L. A banking company shall not form or hold shares in any subsidiary company except a subsidiary company of its own formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor trustee or otherwise and such other purposes set forth in section 277E as are incidental to the business of accepting deposits of money on current account or otherwise.’ ”

[Mr. T. Chapman-Mortimer.]

I gather, Sir, from the remarks of the Honourable the Leader of the Opposition that he is prepared to accept this amendment. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, for the proposed section 277L the following be substituted :

‘ 277L. A banking company shall not form or hold shares in any subsidiary company except a subsidiary company of its own formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor trustee or otherwise and such other purposes set forth in section 277E as are incidental to the business of accepting deposits of money on current account or otherwise ’.”

Mr. Susil Chandra Sen (Government of India : Nominated Official) : Sir, as this amendment really meets with the objections which my Honourable friend, Mr. Bhulabhai Desai, pointed out, we have no objection to accepting it.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I have some doubts. (Inter-ruptions.) It is all for your business, gentlemen, it is all for the business of those persons who carry on business, not for my own. Now, what this amendment means, as it stands, is that “ A banking company shall not form.....except a particular company ”. This company, which is formed for the purpose of undertaking or executing trusts, if it is a subsidiary company of a banking company, may be formed. If, on the other hand, it is a subsidiary company of some other company but not of any banking company, I have an objection. This clause does not permit of the holding of shares by a subsidiary company which is not formed for the purposes of a subsidiary company of a bank. The language is rather too wide, in any case, it does not restrict itself. (*An Honourable Member* : “ Of the bank.”) If that is the object, this does not restrict itself to that object. That company may be formed by any other company. The language of the amendment should be modified as otherwise the object of restricting the scope will be frustrated. Now, may I suggest a verbal change in the amendment ? The early portion of the amendment should read like this :

“ A banking company shall not form or hold shares in any subsidiary company except as a subsidiary company of that banking company.....”

Mr. Bhulabhai J. Desai : That, Sir, is my meaning.

Mr. T. Chapman-Mortimer : If I may say in reply to the Honourable the Leader of the Opposition, a subsidiary company is a subsidiary company only when it is held as another company. We do not need any change in the language of the amendment.

Mr. Bhulabhai J. Desai : This is a little bit of supererogation and I think with great respect that a little more attention would clear the matter. I do not deny that when you talk of a subsidiary company, you must talk of it with reference to some other principal company. I admit that but from that it does not necessarily follow that, unless the language is made clear, that particular subsidiary company referred to there may not be subsidiary to another banking company. I do not say that the objection which is taken is merely for the purpose of taking an objection. The meaning is that a banking company may form or hold shares

in a subsidiary company of its own limited to the purposes there mentioned and to that extent I did concede the principle and I also concede the convenience. After all, it is a matter of pure drafting.

Mr. F. E. James : I have not actually heard the suggestion that the Honourable Member has made. It is rather difficult for us to accept something that we have not heard.

Sir H. P. Mody : What they suggest is "except a subsidiary company of its own".

Pandit Govind Ballabh Pant : The expression "subsidiary company" appears twice. We suggest that in line 2 after the words "subsidiary company" the words "of its own" be inserted.

Sir Leslie Hudson : We accept that amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 111 of the Bill, for the proposed section 277L the following be substituted :

'277L. A banking company shall not form or hold shares in any subsidiary company except a subsidiary company of its own formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor trustee or otherwise and such other purposes set forth in section 277E as are incidental to the business of accepting deposits of money on current account or otherwise.'

The motion was adopted.

Mr. Akhil Chandra Datta : Sir, I move :

"That in clause 111 of the Bill, sub-section (2) of the proposed section 277M be omitted."

Sir, the object of my amendment is this. The provision as to the moratorium is, of course, an emergency measure. My apprehension is that if sub-sections (2) and (3) are retained, then the object of the main section will be frustrated. As a matter of fact, the House has already adopted the main provisions of section 277M. There was only one amendment on the list but it has not been moved. Therefore, the position is that the House has now accepted sub-section (1) of section 277M. Having done that my submission is that no other provision should be made which would frustrate the object of that provision. Sub-section (2) lays down that "No such application shall be maintainable unless accompanied by a report of the registrar". Sub-section (3) lays down that "The registrar shall for the purposes of his report be entitled at the cost of the company to investigate the financial condition of the company". In order to make a report, he has got first to investigate. He cannot make a report as a matter of course. Then it is laid down that for the purpose of that investigation he will have the "books and documents of the company examined by an accountant holding a certificate issued under section 144". Therefore, let us visualise the position. If an application for moratorium is to be made by a bank in the remote mofussil, the application will take some time before it reaches the registrar. Then he will make an investigation and he will have the books and documents examined by a registered accountant. Having done that, he will send his report to the company and it is only then that the company will be in a position to make an application to the Court for staying the proceedings as a temporary measure. My submission

[Mr. Akhil Chandra Datta.]

is that in view of this difficulty, long time will necessarily be taken for going through the formalities and the main object will be frustrated and will lose all its effect. I therefore move that sub-section (2) be deleted.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“That in clause 111 of the Bill, sub-section (2) of the proposed section 277M be omitted.”

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, the amendment that has been moved by my Honourable friend will certainly dilute the proceedings under this section. In the mufassil Courts, as my Honourable friend has said just now, there are no registrars. Registrars are only at headquarters or where there are Chief Courts or High Courts. The Registrar of the Joint Stock Companies does not stay at one place : he moves about : he is not bound to stay at the headquarters. If such a registrar is to make elaborate inquiries and the clients have to go from place to place with their books to refer to all these affairs to the registrar, it would mean an additional and a very heavy expense to the banking companies or whoever they may be whose accounts are to be checked and then application put in Courts. Therefore my Honourable friend takes objection to the Registrar. In the place of the Registrar somebody else may be appointed and especially in the mufassil and there it may be easy for these people to approach him and place their account books and registers. I submit this will be a very dilatory proceeding.

The Honourable Sir Nripendra Sircar : Moratorium also is a very exceptional case.

Mr. Muhammad Azhar Ali : I quite admit that. But there are so many companies that it will not be easy for the Registrar of the Province to undertake this business quickly and easily. That is my only point. I support the amendment.

Mr. Susil Chandra Sen : Sir, I oppose this amendment and it is for this reason. Section 277-M for the first time introduces in the Act the provision for and gives the Courts power to declare a moratorium in the case of a bank which is in temporary difficulty and which wants to utilise the provisions of this section. Before the Court can act there must be some *prima facie* proof in support of the necessity for invoking the aid of this section. One must not forget that this is a most extraordinary section by which the creditors of a bank will be prevented from proceeding with their ordinary remedies.

Mr. Akhil Chandra Datta : Can't you rely upon the Courts ?

Mr. Susil Chandra Sen : The Court cannot possibly go into these matters in a summary way. Before the Court can pass any orders, the Court ought to have some *prima facie* proof that a case for its interference has been made out. It is, therefore, intended in sub-section (2) that before the Court is troubled there must be a preliminary investigation by the Registrar and he must be satisfied by the company who wants to invoke the provisions of sub-section (1) that a case for the exercise of the powers of the Court has been made out. My Honourable friend, Mr. Akhil Chandra Datta, asks, can't you rely on the Courts. The answer

is of course, we can, but the investigation in such an event will have to be made by the Court and as common experience shows an investigation by the Court takes much more time than an investigation by the Registrar. Sir, I, therefore, oppose the amendment.

Pandit Govind Ballabh Pant : I feel inclined to support the amendment and I will give my reasons. It seems to me that this moratorium becomes meaningless if you retain this sub-clause 2. Suppose there is a run on a bank today. The bank requires immediate protection and it must obtain such protection from some competent authority forthwith. But it cannot approach the courts unless it has already obtained a report from the Registrar which it must produce before the court in order to satisfy the court about its position. If it is not so, then of course, I have no difficulty. But as it is, I feel that the provision for moratorium will be practically nullified if the applicant is to present the report of the Registrar before seeking an order from the court under section 277-M (1). Then, is the Registrar bound to furnish the report on the matter? Suppose, I own a bank or am employed in a bank and I am in difficulty and want to approach the court for this step. I go to the Registrar and say, "please make a report on my affairs; I am going to the court and I am seeking a moratorium". Is the Registrar in those circumstances bound to entertain my request? Is he bound to make a report on my affairs? If not, when, I approach him, he may say 'I do not worry myself about your affairs. It is no concern of mine'. Or he may agree to make a report of my affairs, duly on his own terms which we cannot forecast or anticipate now. I therefore request the Government to consider this. If the court will not dispose of this matter finally without calling for a report from the Registrar, that is intelligible, but if the applicant has to obtain the material from the Registrar justifying his request before even making an application, then I think you are putting the coach before the horse and the object will be never attained. So, while I realise the exceptional nature of the provision, yet if it cannot serve any useful purpose, then it is better to omit it altogether than to retain it in a form which cannot be helpful to anybody. I may assure the Government that I am not particularly keen except on this that if this moratorium is to be provided, it must be a real moratorium and it should be open to a deserving person to obtain the permission of the Court for suspension of payment. But as the clause is worded at present it appears that I cannot even present an application unless there is such a report and there are no means by which I can compel the Registrar to make a report on my affairs. In the circumstances I hope the amendment proposed by my Honourable friend, Mr. Akhil Chandra Datta, will be adopted by the House.

The Honourable Sir Nripendra Sircar : I regret to say that I do not see the force of my Honourable friend's contention and it is for this reason. He is visualising the situation that there is suddenly a run on the bank and therefore going to the Registrar and asking for a report means delay. Let us suppose that this amendment is carried and the Registrar is not in the way at all. There is a sudden run on the bank and the case goes to court. What will the court have before it? On what materials will it proceed? Merely on the *ex parte* statements of the bank? If the other side has got to be given notice, there will be some delay. Then take the other point that the Registrar cannot be compelled because he might say "I do not want to worry myself". The same argu-

[Sir Nripendra Sircar.]

ment might apply to the court. It might say "I do not worry. You go away".

Mr. Akhil Chandra Datta : Will it be acceptable if I put in the words "interim order pending the receipt of a report from the Registrar"?

Mr. Bhulabhai J. Desai : I should like the Honourable the Law Member to consider one point in this connection. If any provision is made for interim relief, I can appreciate the argument put forward by the Honourable the Law Member.

The Honourable Sir Nripendra Sircar : But there is no such amendment.

Mr. Bhulabhai J. Desai : I agree there is none. That is why I am suggesting this. There should be a middle course to this effect. Now that the matter is over, I can give you the instances of the Tata Bank, for instance. I can give you the instance of the first application that was presented for the purpose of winding up the Specie Bank and many others that occurred in Bombay and in some instances a temporary relief would have saved the bank. In some others, undoubtedly the only other course is to get some creditor to square with him and get the petition withdrawn which I think is very undesirable as it happened in the case of the Specie Bank. Unless you visualise only one class of cases, namely this, that a bank knows that some day the difficulties are coming and prepares itself in advance and goes to the Registrar and he goes through the formalities or the procedure required in the sub-clause (3) and then alone he can approach the court, I think the relief that is provided for is so illusory that I do not think it is worthwhile.

The Honourable Sir Nripendra Sircar : As I already said there is no such amendment and if one is moved, the result of which will be that the court will not make the final order until the Registrar's report is received, but it can pass *ad interim* protection order, that will be quite acceptable to us. But there is no such amendment moved.

Mr. Muhammad Azhar Ali : That is what we want.

Mr. President (The Honourable Sir Abdur Rahim) : Then, this amendment will stand over. The next amendment is No. 241.

Mr. Akhil Chandra Datta : But amendment No. 241 depends upon the result of amendment No. 240 which has not yet been disposed. The two are connected.

The Honourable Sir Nripendra Sircar : I do not think so. Whatever may be the result of amendment No. 240, we shall oppose this amendment No. 241.

Mr. Akhil Chandra Datta : In that case, I do not propose to move amendment No. 241.** I want to move No. 242, Sir. It reads thus :

"That in clause 111 of the Bill, after the proposed section 277M, the following be inserted :

' 277N. No Banking company shall make any loans or advances to its statutory auditor or a member of the firm of its statutory auditors.

277O. No Banking company shall advertise its authorised capital.

277P. Every creditor or depositor of a Banking Company shall have a right to obtain a copy of the last published annual balance sheet on a payment of annas four."

*** "That in clause 111 of the Bill, sub-section (3) of the proposed section 277M be omitted."

Sir, as regards the first and third, namely, 277N and 277P, these 1 P.M. speak for themselves, and I need not waste the time of the House by making a long speech. As regards 277O, my position is, that although I want it, I am not very keen about it unless it is acceptable to the Government. I shall press it if it is acceptable. But if it is not acceptable, then I shall not press it. The first and the third are very reasonable amendments.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 111 of the Bill, after the proposed section 277M, the following be inserted :

‘ 277N. No Banking company shall make any loans or advances to its statutory auditor or a member of the firm of its statutory auditors.

277O. No Banking Company shall advertise its authorised capital.

277P. Every creditor or depositor of a Banking Company shall have a right to obtain a copy of the last published annual balance sheet on a payment of annas four ’.”

Mr. Susil Chandra Sen : I am afraid, Sir, I have got to oppose all these three amendments. My reasons are these. As regards the proposed sub-section 277N, I find my friend wants to provide against the auditor of a banking company obtaining loans from the company. My friend has apparently forgotten that in a previous clause, 75, we have, without any exception, made provisions against auditors having loans from the company. We have said there that any auditor who accepts a loan automatically vacates his office and any auditor who is already indebted to a company cannot seek election. I do not know what my friend wants. Therefore, 277N has no meaning. It is certainly redundant.

Then, 277O is unwarranted, the restriction on the rights of a banking company to show to the public that it has an authorised capital. If there is any prospective customer of the Bank who is misled by the figure of the authorised capital, he has got to thank himself, but no case has been made out for restricting such an advertisement.

Then, as regards 277P, we have already in the Act a provision for the filing of the balance sheet with the Registrar, and the public are authorised to obtain copies from him. One section of the public, namely, the shareholders have to get it free of cost, but the others, namely, the creditors can obtain copies by paying the schedule charges from the Registrar. I do not know why for them a lower fee than is provided for should be prescribed in the Act. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, after the proposed section 277M, the following be inserted :

‘ 277N. No Banking company shall make any loans or advances to its statutory auditor or a member of the firm of its statutory auditors.

277O. No Banking Company shall advertise its authorised capital.

277P. Every creditor or depositor of a Banking Company shall have a right to obtain a copy of the last published annual balance sheet on a payment of annas four ’.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : Do you wish to move amendment No. 234 which stood over ?

Mr. Akhil Chandra Datta : I omit the last two figures, namely, 277N and 277O. My reason is that 277K, sub-section (4), is a penal provision, and there penalty is provided for not complying with the requirements of the two sections, namely, 277J and 277K.

The Honourable Sir Nripendra Sircar : I think 277N and 277O have gone out. As regards the other figures, I accept 277F, 277G and 277I, and 277L, but 277H is unnecessary.

277H deals with the prevention of the commencement of the business. There should be no penalty for that. 277H, my friend will admit, is a misfit. If he will withdraw that, I will accept 277F, 277G, 277I and 277L.

Mr. Akhil Chandra Datta : I agree.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, in sub-section (4) of the proposed section 277K, for the word and figures ‘ section 277J ’, the words and figures ‘ section 277F, section 277G, section 277I, section 277J, or section 277L ’ be substituted.”

The motion was adopted.

Mr. Susil Chandra Sen : Sir, as clause 111 has been disposed of, may I have your permission to deal with 277F, which stood over till today ? It is part of clause 111. I want to add a few words.

Mr. President (The Honourable Sir Abdur Rahim) : There is another amendment, No. 9, on List No. 2, clause 111, in the name of Mr. Akhil Chandra Datta.

Mr. Akhil Chandra Datta : I don't move it.

Mr. President (The Honourable Sir Abdur Rahim) : No. 20, on List No. 3.

Mr. M. Ananthasayanam Ayyangar : I don't move it.

Mr. President (The Honourable Sir Abdur Rahim) : That, I think, exhausts amendments to clause 111.

Mr. Susil Chandra Sen : Excepting the one which stood over.

Mr. President (The Honourable Sir Abdur Rahim) : Which one is that ?

Mr. Susil Chandra Sen : I have handed over a copy, Sir. I move :

“ That in clause 111 of the Bill, in sub-section (1) of the proposed section 277F, after the words ‘ to the carrying on of ’, occurring in the eighth line, the words ‘ the business of accepting deposits of money on current account or otherwise subject to withdrawal by cheque, draft or otherwise along with ’ be inserted.”

That was a suggestion made by Mr. Desai, and we have accepted it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111 of the Bill, in sub-section (1) of the proposed section 277F, after the words ‘ to the carrying on of ’, occurring in the eighth line, the words ‘ the business of accepting deposits of money on current account or otherwise subject to withdrawal by cheque, draft or otherwise along with ’ be inserted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : Something stood over, did it not ?

The Honourable Sir Nripendra Sircar : Yes, Sir. We have come to an arrangement about it. I think my friend, Mr. Akhil Chandra Datta, wanted to omit it. We objected to its deletion. Then, as a result of the discussion, we came to an agreement, and we have no objection to putting in a clause to the effect that, although the Registrar's Report will be necessary, that will not prevent the Court from giving an interim protection pending the Report. This I may be allowed to move in clause 111.

Mr. President (The Honourable Sir Abdur Rahim) : Have you got the amendment ?

The Honourable Sir Nripendra Sircar : Yes, Sir.

Mr. Akhil Chandra Datta : Sir, I withdraw my amendment, No. 240.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House to withdraw his amendment ?

Several Honourable Members : Yes, yes.

The amendment was, by leave of the Assembly, withdrawn.

The Honourable Sir Nripendra Sircar : I move this amendment, Sir :

“ That in clause 111, in section 277M, sub-section (2), the following proviso be added :

‘ Provided, however, that the Court may, for sufficient reasons, grant interim relief even if the application is not accompanied by such report ’.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 111, in section 277M, sub-section (2), the following proviso be added :

‘ Provided, however, that the Court may, for sufficient reasons, grant interim relief even if the application is not accompanied by such report ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 111, as amended, stand part of the Bill.”

The motion was adopted.

Clause 111, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : Then we go on to clause 112.

The Honourable Sir Nripendra Sircar : Before you take up clause 112, I may remind the House that amendment No. 216 in clause 109 has stood over.

Mr. President (The Honourable Sir Abdur Rahim) : It is an amendment of Mr. Paliwal. We will take it up after Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Mr. Deputy President (Mr. Akhil Chandra Datta) : We will now take up the amendment in the name of Mr. Sen which was postponed.

Mr. Susil Chandra Sen : Sir, yesterday I had moved the amendment, but there were certain difficulties which were pointed out by my Honourable friend, Mr. Pant. I have corrected them, and I have submitted a draft, and with your permission, I propose to move the following :

“ That after clause 94 of the Bill, the following new clauses be added :

‘ 94B. In section 188 of the said Act, the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively to ’ shall be omitted and after the words ‘ official liquidator ’ where they first occur the words ‘ in any Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 ’ shall be inserted.

94C. In section 189 of the said Act, for the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay or any branch thereof respectively ’ the words ‘ the Bank where the liquidator of the Company may have his account ’ shall be substituted ’.”

I beg leave of the House to withdraw the other amendment, Sir, and I move this.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Has the Honourable Member the leave of the House to withdraw his amendment ?

Several Honourable Members : Yes.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Susil Chandra Sen : I move :

“ That after clause 94 of the Bill, the following new clauses be added :

‘ 94B. In section 188 of the said Act, the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively to ’ shall be omitted and after the words ‘ official liquidator ’ where they first occur the words ‘ in any Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 ’ shall be inserted.

94C. In section 189 of the said Act, for the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay or any branch thereof respectively ’ the words ‘ the Bank where the liquidator of the Company may have his account ’ shall be substituted ’.”

Sir, as I explained yesterday, it is merely a consequential amendment in consequence of our having now provided that any liquidator may have his money not only in the Imperial Bank which has succeeded the Bank of Bengal, but in any of the Scheduled Banks. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That after clause 94 of the Bill, the following new clauses be added :

‘ 94B. In section 188 of the said Act, the words ‘ the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively to ’ shall be omitted and after the words ‘ official liquidator ’ where they first occur the words ‘ in any Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 ’ shall be inserted.

- 94C. In section 189 of the said Act, for the words 'the Bank of Bengal, the Bank of Madras or the Bank of Bombay or any branch thereof respectively' the words 'the Bank where the liquidator of the Company may have his account' shall be substituted."

Mr. M. Ananthasayanam Ayyangar : May I know, Sir, why, in amending section 189, he says "where he may have an account" It is not there in the section. There it is stated all moneys, Hundies, notes and other securities paid and delivered to the Bank of Bengal, the Bank of Madras, etc., in the event of the company being wound up by the Court....

The Honourable Sir Nripendra Sircar : Are you objecting to this ?

Mr. M. Ananthasayanam Ayyangar : Yes, I object to the addition of the words "Where the official liquidator has an account". That portion is not necessary.

The Honourable Sir Nripendra Sircar : I thought this was agreed to by your Leader. This particular form was shown and settled between your Leader and Mr. Sen. I admit I had nothing to do with it.

Mr. M. Ananthasayanam Ayyangar : We agreed to substitute it. "Where he may have an account" will mean he must have an account.

An Honourable Member : He must have an account somewhere.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That after clause 94 of the Bill, the following new clauses be added :

'94B. In section 188 of the said Act, the words 'the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively to' shall be omitted and after the words 'official liquidator' where they first occur the words 'in any Scheduled Bank as defined in clause (c) of section 2 of the Reserve Bank of India Act, 1934' shall be inserted.

94C. In section 189 of the said Act, for the words 'the Bank of Bengal, the Bank of Madras or the Bank of Bombay or any branch thereof respectively' the words 'the Bank where the liquidator of the Company may have his account' shall be substituted'."

The motion was adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta) : No 216* was also postponed ?

An Honourable Member : I think you must put clause 94 to the House.

"That for sub-clause (a) of clause 109 of the Bill, the following be substituted :

'(a) for sub-section (3) and the proviso thereto the following shall be substituted, namely :

'(3) Every company to which this section applies shall in every calendar year make out a balance sheet in such form, and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and deliver for registration a copy of that balance sheet to the registrar of the province in which the company has its principal place of business ; and if any such balance sheet is not written in the English language, the company shall annex to it a certified translation thereof'."

Mr. Deputy President (Mr. Akhil Chandra Datta) : I understand that has been added. What about No. 216 ?

The Honourable Sir Nripendra Sircar : That was under discussion. It was moved by Mr. Paliwal, and I had concluded my speech on that. Then it stood over to enable us to come to a kind of agreement. I am sorry to say there is no agreement, and so we have to go on with 216.

Pandit Govind Ballabh Pant : Sir, I rise to support the amendment moved by my friend, Mr. Paliwal. The amendment seeks to restore the original clause in the Bill in place of the clause substituted by the Select Committee. The clause in the Bill as it originally stood was exactly in the terms of this amendment. If Honourable Members will refer to the original clause 94 in the Bill as it was introduced in this House which is given at page 47, they will find the following words there :

“ For sub-section (3) of section 277 of the said Act and the proviso thereto the following sub-section shall be substituted, namely :

“(3) Every company to which this section applies shall in every calendar year make out a balance sheet in such form and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and deliver for registration a copy of that balance sheet to the registrar of the province in which the company has its principal place of business ; and if any such balance sheet is not written in the English language, the company shall annex to it a certified translation thereof.”

As Honourable Members may have noticed, in the original Bill this clause was exactly in the same form in which it appears in the English Act. If they will refer to section 347 of the English Act they will find exactly the same provision. Section 347 too applies only to companies incorporated outside Great Britain and carrying on business within Great Britain. Section 343 gives the definition of the companies to which part XI of the English Act applies, and section 347 gives this clause which was originally embodied in the Bill itself. Now, Sir, this clause has been amended and in its place we have got section 277A which is given in clause 109 of the Bill as it has emerged from the Select Committee. It says :

“ after the words ‘ a copy of the balance sheet ’ the following words shall be inserted, namely :

“ and if the balance sheet does not contain all the information provided for in the form marked H in the Third Schedule, such supplementary statements as shall furnish such information ” ; ”

They have devised a different balance sheet now for the companies incorporated outside British India. Now, Sir, as Honourable Members are aware, this Bill was based on the English Act, it is modelled on the English Act of 1929. And in fact one of the main reasons why the amendment of the company law was taken up arose out of the amendments made in the company law in England in 1929. There is no reason why, when we are accepting the provisions of the English Act in almost every other particular except matters concerning managing agents which do not exist in England, we should make a distinction in

this particular matter. We were told that it may be inconvenient and difficult for companies incorporated abroad which have extensive business in other parts of the world to comply with the provisions of our Act. Sir, I do not dispute that the balance sheets prescribed in other countries being in some cases different from our own, the form or the particulars which we want them to comply with may not suit their convenience in some cases. But is that a peculiarity of our country only? Would not that apply to the companies which carry on business in the United Kingdom? If you will see section 347 to which I have invited the attention of Honourable Members, you will find that there a company has to comply with the balance sheet prescribed under the English Act; and the balance sheet prescribed under the English Act does not tally with the balance sheets and documents prescribed by other Acts in other countries. When a firm or a company carries on business in another country it is bound to comply with the rules and laws obtaining in that particular country. That is the only way now you can maintain uniformity. But it is not a mere matter of form; matters of substance come in. After all, when certain particulars are required to be given in the balance sheet in any country, it is because those particulars are considered necessary for the purpose of proper administration of companies in that particular country. In our own country, for example, we have made a number of provisions in the light of the requirements of our country. We require many things to be disclosed pertaining to managing agents and others. We have made elaborate provisions regarding certain matters because it is felt that in the absence of such provisions there might be room for fraud and other difficulties, and the state of affairs may not be fully disclosed to the shareholders and the general public. Now if companies incorporated outside are not required to comply with the provisions of this law, then they have only to get themselves registered in other countries to evade the restrictions applicable to companies incorporated in British India itself. Thereby we place our companies under a disability as those registered abroad will be able to circumvent and get over the provisions of our normal law simply by getting themselves registered in other countries. If a person, for example, wants to have a firm of managing agents or if managing agents want to get over certain disclosures which have to be made in our balance sheet under our law, the company instead of being registered in Calcutta may seek registration in Chandarnagore. Similarly there may be other cases. So it is not a matter of form only but it also involves matters of substance. Then, Sir, we were told that it might cause difficulties to the companies incorporated abroad. I should just like Honourable Members to refer to what the companies incorporated abroad have to comply with in England. Under this section 347 they are required to make out a balance sheet:

“in such form and containing such particulars and including such documents as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and deliver a copy of that balance sheet to the registrar for registration.”

Now, if you will please look at the English Act—sections 110, 124, 125, 126, 128, 129, 44, 45, 51 and so on—you will find that the English law is very stringent and very elaborate as to the matters to be specified and disclosed in the balance sheet. I will not refer to the many

[Pandit Govind Ballabh Pant.]

things that are there, but I shall quote the first clause of section 124 which says :

“ Every balance sheet of a company shall contain a summary of the authorised share capital and of the issued share capital of the company, its liabilities and its assets, together with such particulars as are necessary to disclose the general nature of the liabilities and the assets of the company and to distinguish between the amounts respectively of the fixed assets and of the floating assets, and shall state how the values of the fixed assets have been arrived at.”

Clause (2) says :

“ There shall be stated under separate headings in the balance sheet, so far as they are not written off—

- (a) the preliminary expenses of the company ; and
- (b) any expenses incurred in connection with any issue of share capital or debentures ; and
- (c) if it is shown as a separate item, etc., etc., etc.”

Then, there is clause (3) which further amplifies the previous clauses and then there is clause (4). Now, let us come to section 125. I am not reading the whole clause which deals with assets consisting of shares in subsidiary companies : it says that the assets of the subsidiary companies should be given in full detail distinguishing between shares, debentures, indebtedness and so on. It is a pretty long clause which Honourable Members can if they choose refer to. Then under section 126, balance sheets should include particulars as to subsidiary companies. This again covers about three-fourths of a page and I need not read it out in full. Then there is section 128 which again requires the accounts to contain particulars as to loans to and remuneration of directors, etc. Section 129 refers to other matters. I am referring to this just to bring it to the notice of Honourable Members that the balance sheet that is prescribed in England is very elaborate and imposes many more liabilities on those who have to file a balance sheet than the balance sheet prescribed here. In fact our balance sheet was greatly simplified in the Select Committee. So, when companies incorporated, say in India or in New York or other places, have to comply with all these rules and to disclose the assets and liabilities not only in respect of the parent company but also in respect of subsidiaries, to give accounts of their liabilities, their debts and so on, to give detailed statement as to the remuneration paid to the directors and other matters if they carry business in England, is no reason why our balance sheet which does not require even half of what the English Act demands should be departed from here. In addition, there are other documents which have to be placed before the general meeting which too have to be taken into account when these foreign companies carrying on business in England file their balance sheets. In these circumstances I see no reason whatever why we should not incorporate this section of the English Act when we have included every other part of that Act in our law. It is also a question, I submit to a certain extent, of our national status. I will not be obsessed by it because we are here concerned with matters of business. But when a company incorporated in India has to comply with the law framed in England in the light of and out of regard for the circumstances of companies incorporated in England, there is no reason why we should not require

companies incorporated outside India to comply with our normal law. In fact I could have understood if a provision had been made here making things more stringent for them than in the case of our own companies ; for, so far as our companies are concerned we may get information about their affairs even without looking at the balance sheet : we are here in touch with them ; we see their affairs being conducted, and the press and other persons acquainted with the affairs of the company can always throw light on the affairs of a company incorporated here. But as regards the companies incorporated abroad, unless we have at least these documents which we consider necessary in the case of companies incorporated in our own country, we cannot get even that minimum of information which we consider essential in the case of companies incorporated in our own country. I see no reason why we should depart from the general rule. The Honourable the Law Member told us the other day that there is a provision in existing Act by virtue of which the Governor General or the Government of India can exempt companies from the operation of the ordinary rule. In fact, what the present Act lays down is this : that a company may either file a balance sheet in the form in which it has to file it in the country where it was incorporated, or it may file a balance sheet in the form prescribed here and in the latter case it may make a variation with the permission of the Governor General ; but where a company put in a balance sheet which it had to file before the registering authority in the country where it was incorporated, no exemption was needed at all. So if the numbers of exemption were not high so far, that is easily explicable ; but hereafter if you give such authority to the Governor General or if you make a rule that departs from the general balance sheet, then in most cases there will be a departure from the form prescribed for our own people here.

Then, it was also suggested, I do not know if I understood the Honourable the Law Member correctly, that even if this amendment was made, still the Governor General would have a discretionary power. I do not know if that was what he said, but that is my impression : I was perhaps looking at something else at the time. But I think that that is not the correct view. If Honourable Members will please look at the amendment, it says that in place of sub-section (3) and the proviso thereto in section 277, this clause shall be substituted. Now, this proviso to (3) is part of the sub-section (3), whereby discretionary power is given to the Governor General. So, if the House accepts this amendment, then hereafter the Governor General will have no discretionary power, and we will have only this clause by virtue of which all companies carrying on business in India will be required to file the same type and form of balance sheet or to furnish all those particulars which our own companies incorporated in this country have to ; and I think the House will be failing in discharging its elementary duty if it fails to accept this amendment.

Some Honourable Members : The question may now be put.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I am rather at a loss to understand why the Government have thought it fit to oppose our amendment. As far as the principle underlying this amendment is concerned, I find that the Government also are prepared to accept it, because the next amendment on the list No. 217,

[Prof N. G. Ranga.]

runs exactly in the same way as this amendment moved by my Honourable friend, Pandit Sri Krishna Dutta Paliwal, except for this variation where it says :

“ to the registrar of the province in which the company has its principal place of business ; and if any such balance sheet is not written in the English language, the company shall annex to it a certified translation thereof.”

It may be that Government are very particular about the proviso which Mr. Sen wishes to retain and which my Honourable friend, Mr. Paliwal, wishes to get rid of. If it is agreed that every company to which this part of the Act applies shall in every calendar year make out a balance sheet and so on, just in the same way as our own companies in this country registered under this Act are required to do, I cannot understand why the Government should be so very particular to insist upon this particular proviso and leave the power to the Governor General in Council to exempt such of those companies as seek exemption by a notification and so on. It is agreed on all sides that there should be this restriction. It is also agreed that these foreign companies carrying on business in this country should be placed on the same footing as our own companies. We do not seek to disqualify these foreign companies in any way, nor do we place them under any disabilities. We only want that the companies which have been incorporated elsewhere and which carry on business in this country for profit should be placed on the same footing as our own companies and should not be exempt from compliance with this particular section and thus enjoy a favoured position as compared to our own companies. It is unfair—of course, it is in keeping with the general policy of this Government and its supporters that they should be trying to chalk out a more favourable position for all those foreign companies which carry on business in this country. It is a well-known fact that in Germany and Italy, ruled as they are by their own dictators, attempts are being made successfully to see that foreign companies do not enjoy the same privileges as the indigenous companies. We do not even ask for that power to be exercised here by our Government. Even if we have tried to ask for it, our own friends the capitalists have bartered away the powers of our country, the liberties of our country at the three Round Tables and also before the Joint Parliamentary Committee.

Sir Cowasji Jehangir : Hear, hear.

Prof. N. G. Ranga : I am glad that my Honourable friend, the Baronet from Bombay, acknowledges the unpatriotic part that he has played at the Round Table Conference as well as before the Joint Parliamentary Committee. We have to thank such politicians, we have to thank such magnates for many of the disabilities from which we are suffering, and this is one of the disabilities that we are not allowed to seek to place our own companies in a more favoured position than foreign companies. But at least I sincerely hope that my Honourable friends will be willing to co-operate with us in trying to place our own companies on the same footing as the foreign companies carrying on business in this country. I cannot understand why the Governor General in Council should be given this particular special power to grant exemption to many of these companies. (Interruption.) The time has not yet come when we are in a position to get rid of this particular Governor General in Council, but as long as the Governor General in Council is there, we certainly cannot be a party to

give him this particular special power so that he can be enabled to place our companies in a less favourable position than foreign companies. I hope Honourable Members will remember the fact that the External Capital Committee was hard put to it to estimate the total amount of capital invested in this country by the companies incorporated elsewhere but carrying on business on this side. It also found it necessary to recommend that a provision should be incorporated in our Companies Act in order to see that all these foreign companies are obliged to furnish as much information as is done by our own companies. I sincerely hope that Government as well as Honourable Members on that side will see the reason in the recommendation made by the External Capital Committee and accept their recommendation and pass this amendment.

Some Honourable Members : Let the question be now put.

Prof. N. G. Ranga : I have not yet sat down please. (Laughter.) I sincerely hope that the Government as well as Honourable Members on that side will see the reason underlying this amendment moved by my Honourable friend and will accept it. If they do not do that and if they give an opportunity to the Government to exercise this special function, I hope they will realise that thereby they will be doing an injustice, an irreparable injustice, to Indian industrialists as well as Indian capitalists, and indeed to India as a whole, and they will be trying to place on our own Statute-book an Act which will be worse than the Government of India Act. We are all protesting against the Government of India Act as is well-known to Honourable Members. All over India, with one voice Indians by millions have protested against this Government of India Act and we are trying our best to get rid of it and destroy it as soon as possible and as well as possible. And if in addition to that we are obliged to undertake this task also of getting rid of this Act because of the insistence of this Government to try to perpetrate a greater injustice than we have been obliged to suffer, then it will be most unfair on the part of Honourable Members to saddle us with this most unpleasant, most difficult and most necessary task of having to fight against all these injustices. Therefore, I sincerely hope that Honourable Members on the other side of the House, including my Honourable friends from Bombay, will support our amendment and will prevent this Government from playing hide and seek even with their own class of people, their own class of capitalists and industrialists.

Some Honourable Members : Let the question be now put.

Mr. Bhulabhai J. Desai : I regret very much that the Government do not see their way to accept the amendment which I thought went as far as it ever could towards placing the foreign companies operating in this country in a far more favourable position than the companies which are registered under this Act. It is perfectly futile for Honourable Members who shouted to the contrary that by this section you are not putting foreign companies in a much more favourable position as regards compliance with the requirements of the Act than companies formed and registered here. If they choose to shut their eyes to it, it is their own business. It is a matter of some sincere regret to me, and I entirely agree so far that while Form F may be changed by Government, the change would not be *pari passu* with a change in favour of Indian companies along with other companies. Therefore, it is useless to be reminded of the fact that we did not take care to take away that power from the

[Mr. Bhulabhai J. Desai.]

Governor General in Council. We might continue to be reminded of many things which we have omitted to do, whether they were done out of courtesy, or out of a sense of propriety, or, you may flatter yourself, out of neglect, but none the less, wherever our vigilant mind at all events can work and seize the opportunity, that cannot be an argument that on previous occasions we did not do what we might have done in order to place ourselves in a better position.

Now, what is it that we demand. Take the National City Bank of New York which operates in many parts of England and Scotland. They prepare a balance sheet for the purpose of being filed with the Registrar in England where there are much more stringent provisions than we ask for. I cannot see how you are putting any of these companies at a disadvantage. There can be no difficulty with most of the foreign companies operating here, especially because they comply with much more stringent provisions in their own country. Take the non-English ones. If they are operating in England, as they must be doing, most of them comply with much more stringent provisions and yet we are told that there is something in the atmosphere of this country which makes it below their dignity to take the same trouble of filing a balance sheet and complying with the far less stringent provisions that we have in this country. I cannot see any object in the rejection of this amendment except the avoiding of a small inconvenience to those doing business in this country. If they wish to operate in this country and require the credit of this country, it is up to them to see that the people who trust them, deal with them, bank with them and do business with them must have sufficient knowledge of the general financial stability and the condition with regard to their operations during the year as well as what is called the ordinary block account. Yet there is a solid opposition which does not show much consideration from the point of view of regarding the matter, as a matter of argument and reason and not merely a matter of rejection.

Several Honourable Members : I move that the question be now put.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That for sub-clause (a) of clause 109 of the Bill, the following be substituted :

‘ (a) for sub-section (3) and the proviso thereto the following shall be substituted, namely :

‘ (3) Every company to which this section applies shall in every calendar year make out a balance sheet in such form, and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and deliver for registration a copy of that balance sheet to the registrar of the province in which the company has its principal place of business ; and if any such balance sheet is not written in the English language, the company shall annex to it a certified translation thereof ’.”

The Assembly divided :

AYES—41.

Abdullah, Mr. H. M.
Aney, Mr. M. S.
Ayyangar, Mr. M. Ananthasayanam.
Azhar Ali, Mr. Muhammad.
Bagavan Das, Dr.

Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chetty, Mr. Sami Vencatachelam.
Chunder, Mr. N. C.
Das, Mr. R.

AYES—*contd.*

Das, Mr. Basanta Kumar.
 Desai, Mr. Bhulabhai J.
 Fuzhul Hug, Mr. A. K.
 Gadgil, Mr. N. V.
 Giri, Mr. V. V.
 Gupta, Mr. Ghansham Singh.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.
 Khan Sahib, Dr.
 Khare, Dr. N. B.
 Lalchand Navalrai, Mr.
 Meitra, Pandit Lakshmi Kanta.
 Mulaviya, Pandit Krishna Kant.

Mudaliar, Mr. C. N. Muthuranga.
 Muhammad Ahmad Kazmi, Qazi.
 Paliwal, Pandit Sri Krishna Dutta.
 Pant, Pandit Govind Ballabh.
 Ranga, Prof. N. G.
 Suksema, Mr. Mohan Lal.
 Surti Singh, Sardar.
 Shum Lal, Mr.
 Sheodass Daga, Seth.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sinha, Mr. Shri Krishna.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Varma, Mr. B. B.

NOES—52.

Abdul Hamid, Khan Bahadur Sir.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ahmed, Mr. K.
 Ayyar, Diwan Bahadur R. V. Krishna.
 Badi-uz-Zaman, Maulvi.
 Bajoria, Babu Baijnath.
 Bajpai, Sir Girja Shankar.
 Bewoor, Mr. G. V.
 Bhagechand Soni, Rai Bahadur Seth.
 Bhat, Mr. M. D.
 Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Dalal, Dr. R. D.
 Das-Gupta, Mr. S. K.
 Dey, Mr. R. N.
 Ghiasuddin, Mr. M.
 Ghuznavi, Sir Abdul Halim.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Jehangir, Sir Cowasji.
 Khurshaid Muhammad, Khan Bahadur Shaikh.
 Lal Chand, Captain Rao Bahadur Chaudhri.

Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Mody, Sir H. P.
 Morgan, Mr. G.
 Mukherjee, Rai Bahadur Sir Satya Charan.
 Naydu, Diwan Bahadur B. V. Sri Hari Rao.
 Nind, Mr. W. W.
 Noyce, The Honourable Sir Frank.
 Parma Nand, Bhai.
 Rajah, Rao Bahadur M. C.
 Rau, Mr. P. R.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.
 Sen, Mr. Susil Chandra.
 Sher Muhammad Khan, Captain Sardar.
 Siddique Ali Khan, Khan Sahib Nawab.
 Singh, Rai Bahadur Shyam Narayan.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Zafrullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I find that amendment No. 217 was also postponed. Mr. Sen.

Mr. Susil Chandra Sen : Sir, I do not move it.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 109 stand part of the Bill.”

The motion was adopted.

Clause 109 was added to the Bill.

Clause 112 was added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 113 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammadan Rural) : Sir, the amendment that stands in my name runs thus :

“ That in clause 113 of the Bill, for sub-section (2) of the proposed section 282B, the following be substituted..... ”

Mr. N. M. Joshi (Nominated Non-Official) : Don't move it.

Pandit Sri Krishna Dutta Paliwal : Sir, my friend, Mr. Joshi, the Labour Leader, is there, and in deference to his appeal, I don't move it when he is there to represent labour, why should I bother.

Mr. N. M. Joshi : Sir, I move :

“ That in clause 113 of the Bill, for sub-section (2) of the proposed section 282B, the following be substituted :

“(2) Where a provident fund or any other fund for the welfare of the employees has been constituted by a company for its employees or any class of its employees, such fund shall be a trust for the benefit of those employees or that class of employees, and the moneys of the fund shall be invested only in securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trust Act, 1882.”

In this connection, I would like to point out that in the printed amendment some words have been omitted by mistake, viz., “ for the welfare of the employees ”, after the words “ or any other fund ” in the third line.

Mr. Deputy President, the amendment which I have moved is, with some modification, the original clause as it existed in the Bill introduced by the Government of India. The only change which my amendment makes to the clause which the Government themselves had proposed in the original Bill is the addition of the words “ or any other fund for the welfare of the employees ”. The object of this amendment is to protect all the funds which are created by the companies for the welfare of their employees by insisting upon their being invested in trustee securities. The employers, in order that the future of their employees should be safeguarded, in order that the workers should be helped in the event of various difficulties create funds like the provident fund and others. To many of these funds, the employees themselves contribute a good share. It is necessary that these funds should be properly invested if their object is to be secured and in order to avoid the risk that the workers may have to take if the companies are not in a good condition.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

Sir, when the original clause in the Bill went before the Select Committee, they modified the clause originally proposed by the Government of India. The Select Committee modified the clause so that the protection is given not to the whole of the provident fund but only to that part of it which was contributed by the employees themselves. I feel that the change made by the Select Committee is against the interest of the employees and was unjustified. I shall first deal with the question of the provident fund itself. A provident fund is intended to safeguard the employees in their old age or for the protection of the family of the employees, and, when a fund of that nature is created, even the contribution made by the employers themselves is a part of the wages which the employees are to be paid. When an employee is engaged by an employer on certain conditions, he promises to pay a certain amount of wage. Then

he promises that the employees will be given certain other benefits such as those of a provident fund. That provident fund the employees contribute and the employers also contribute. The contribution made by the employers is a condition of the contract of service and therefore the contributions made by the employers are, in my humble judgment, a form of payment of wage which is only deferred. I therefore feel that there is absolutely no justification for making any distinction between the contribution of the employers and the contribution of the employees. Moreover, there is another change made by the Select Committee in the original clause proposed by the Government of India and that change is that the accumulated funds before the passing of this Bill need not be invested into trustee securities. The Bill had proposed that the whole of the provident fund from its beginning should be invested into what are known as trustee securities. The Select Committee changed this provision and proposed that any contributions made after the passing of this Companies Bill should only be invested into trustee securities. I feel that this change which is made by the Select Committee was also not justified. Sir, there are one or two reasons given by the employers in order that this provision should not be made. The first argument is that if the funds are invested into the company itself, the company may be able to pay a larger rate of interest. As a matter of fact, in the rules of some of the provident funds the rate of interest proposed is a little larger than the rate of interest which one can expect from the trustee securities. I feel that, although it may be true that in the case of some provident funds which are invested in the trustee securities, there will be some loss in the form of interest to the employees, on the whole the employees will gain by way of larger security. The private companies, however good they may be, are not as secure as the trustee securities. Therefore, the employees have to see that, although they may get a little more interest by their provident fund being invested into transactions of the company itself, if they care for security it is necessary that the whole of the fund should be invested into the trustee securities. Moreover, if the future contributions are to be invested into trustee securities, why should not the past contributions be similarly invested? There is some justification given for omitting the past contributions from the scope of this clause. It is said that the employers have been administering some of the provident funds for several years. Some of the provident funds may have existed for 60 years and some may have existed for 10 years and the contributions now amount to a very large sum. In some cases the total amount of the provident funds may amount to 10 lakhs, in others it may amount to 25 lakhs and in some cases it may amount to 50 lakhs. It is said that if you now pass this measure, the employers who have used that fund in their own transactions will have to set free a large capital for being invested into trustee securities. Now, Sir, if the employers have used the provident fund for financing their own transactions, they have done a wrong thing. If the object of the provident fund is to protect the workers in their old age and to protect the families of the employees, it was the duty of the employers to see that the provident fund was properly, securely and safely invested. It was wrong for those companies which started these provident funds to have invested the provident fund in their own transactions. If those companies have, therefore, invested the provident fund in their own transactions and mixed it in their own finance, they have done a wrong thing, and when they have done a wrong thing, they cannot plead that wrong thing as an excuse for

[Mr. N. M. Joshi.]

not accepting the proposal which I am now making, namely, that the whole of the provident fund from the beginning should be invested into trustee securities.

Then, Sir, I shall say only a word about one part of my amendment which I have added to the original clause proposed by the Government of India. The clause which I am proposing is this that not only the provident fund should be invested into trustee securities but if there are any other funds created for the welfare of the employees, those other funds also should be invested into trustee securities. There are several companies and industrial concerns which create not only provident funds but other welfare funds also. Out of these welfare funds, some companies, I know, give pension to their employees when they grow old.

Out of the welfare fund, I have known employers give some help to the employees when they are sick. I have known employers give some help to the employees for the sake of funerals and these welfare funds are used in various other ways for the benefit of the employees. To these other welfare funds the employees also contribute in several cases. Even in the case where the employees do not generally contribute, when it is a question of giving assistance to the employees, say, during sickness or for the sake of funerals and for other purposes it is a condition of service when welfare fund is created and when contributions are made to the welfare fund that fund belongs to the employees as deferred wages. I therefore feel that not only the provident fund should be invested in trustee securities, but whatever other fund that may exist for the welfare of the employees should be invested in trustee securities. I hope the amendment which I am proposing now will be accepted by the House. It is intended to protect the funds that have been created for the welfare of the employees so that if a company is in a bad condition or if a company is ruined, the workers should not be ruined. Mr. President, there are instances of companies which had large funds in the provident fund as well as in the welfare fund but when such companies have gone to ruin, the provident fund and also the other funds belonging to the employees have also been lost and the workers have been put to a great loss. I, therefore, hope that the House will accept my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 113 of the Bill, for sub-section (2) of the proposed section 282B the following be substituted :

- “(2) Where a provident fund or any other fund for the welfare of the employees has been constituted by a company for its employees or any class of its employees, such fund shall be a trust for the benefit of those employees or that class of employees, and the moneys of the fund shall be invested only in securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trust Act, 1882 ’.”

Sir H. P. Mody : Sir, my Honourable friend, Sri Krishna Dutta Paliwal, could not have done better than to withdraw his own amendment in favour of Mr. Joshi's ; he could not have selected a more extreme exponent of the anti-industrial point of view than my Honourable friend opposite. My Honourable friend very airily says, “ Yes, I have heard that there are funds which have got 10, 20, or even 50 lakhs accumulated, and the employer would find some difficulty in disorganizing all that and

investing the amount in trustee securities ; but what does it matter ? ” Yes, what does it matter to Mr. Joshi ? But certainly it means a lot to the employers. Mr. Joshi is not merely content with protecting provident funds ; he also wants to extend the protection to other welfare funds, particularly because an amendment which related to such funds was passed yesterday at his instance. I would incidentally like to ask my Honourable friend what happens, if the company goes into liquidation, to the welfare fund which is invested in trustee securities ? In provident fund accounts for the employees, there is a certain amount standing to their credit in the books and so on liquidation or otherwise the amount is paid to the employees. But what happens to the welfare fund ? Is it the property of any individual employee or any group of employees ? Supposing there is a sum of one lakh of rupees in a welfare fund and the company went into liquidation ? Would the amount be distributed *pro rata* amongst all the employees of the company ? Would it be distributed in proportion to their wages or in some other way ? Unfortunately this anomaly was somehow or other omitted to be pointed out when the welfare fund was placed in the position of having priority in the event of liquidation.

An Honourable Member : It will be spent on the funeral of the company.

Sir H. P. Mody : It will be a costly funeral anyhow, requiring all the amount accumulated in the welfare fund. Now coming to the point at issue, namely, whether provident funds should be allowed to be retained in the form in which they are at the moment or invested perforce in trustee securities. I want to say that the proposal is neither in the interests of the employer nor in the interests of the employees.

Some Honourable Members : Oh ! Oh !

Sir H. P. Mody : It is not in the interests of the employer in this sense that there are many companies which have got enormous accumulations of provident fund, whose ways and means position would be very seriously affected if they were obliged at a moment's notice to invest all the amounts in trustee securities, and taking them out of the business in which they are at the moment invested. I know of one company which has as much as one crore 25 lakhs in its provident fund. I know of another company which has got 55 lakhs, and there are many other companies which have got very substantial amounts in their provident funds. They are all invested in the business today, and you are asking that all these sums should at a moment's notice be released from the business and invested in trustee securities.

An Honourable Member : Gradually.

Sir H. P. Mody : But that is not the proposal before the House. I say the proposal would inflict a very great hardship upon companies and would affect their was and means position seriously. It would disorganize the business of companies. Taking next the case of employees, they would suffer because the loss of interest which would necessarily be consequent upon the acceptance of such a proposition. Most companies pay six per cent. interest upon the accumulations in the provident fund. If they are to be invested in trustee securities, then the yield on those securities would be probably in the neighbourhood of three per cent. The employees would thus stand to lose half the amount of interest on their investments. They

[Sir H. P. Mody.]

would get half of what they are getting at present. That, Sir, would not be doing a service to the employees by any manner of means. I could understand this safeguard being suggested if there were many cases of abuse, but how many cases of abuse there have been? I know of just one glaring instance, an instance which nobody could defend and which I would be the last person to defend. There have been very few such cases. After all, why should the employer have started the provident fund unless it be that he intended to do well by the employees, unless he intended to give them a fair deal. The employer not only contributes an equal amount but also pays six per cent. interest. Well, Sir, if the intention was not to do everything that was possible for the employees, why should a provident fund be started at all? Therefore, it is idle to say that abuses have come to light which make it necessary that even at the loss of three per cent. interest, the employees should be protected. Then, Sir, there is another consideration. Under the Income-tax Act certain privileges are enjoyed by recognized provident funds. If the funds are invested in trustee securities and proper trustees are appointed, then a certain relief in the matter of income-tax is given to such funds. In spite of that there are a good many funds which have not for one reason or another thought fit to take the benefit of the provisions under the Income-Tax Act. The reasons are that these provident fund rules are far more rigid than the rules of practically every provident fund with which I am acquainted. In the case of many concerns with which I am acquainted, the rules with regard to the withdrawal of the amounts are so very much more liberal than the Income-Tax Rules that there would be a howl from the employees if we sought to place such funds under Income-Tax Rules, and denied those facilities, which employees from time to time require on the occasion of marriages, funerals and the like. It seems to me that if this amendment were accepted, and if employers were obliged to invest provident fund amounts in trustee securities, then the next step would be naturally to take the benefit of the income-tax provisions, with the result that all those facilities, which are now being enjoyed, and which, as I have said, are far more liberal than those which the income-tax rules provide, would be denied to the workpeople. Sir, in another connection I made the same point some time ago, and my Honourable friend, Sir Frank Noyce, conceded the reasonableness of my contention; and so under the Payment of Wages Act not only is there exemption in respect of funds which are invested in trustee securities and which come under the income-tax rules, but also in respect of any other fund which may be approved by the Local Governments. From every point of view I say that this proposition is ill conceived, and if my Honourable friend, Mr. Joshi, thinks that he is serving the interests of the working classes, I say that he does not know what he is talking about. The effect of passing this amendment will be to put companies in great difficulties and to put employees in still greater difficulties, and I oppose the amendment.

Mr. V. V. Giri (Ganjam *cum* Vizagapatam : Non-Muhammadan Rural) : Sir, I do not desire to take more than a few minutes so far as this amendment is concerned. I rise to support the amendment and I would only like to reply to some of the points raised by my Honourable friend, Sir Homi Mody. What he said practically amounts to this that the employer starts this provident fund because he believes in a spirit of philanthropy. My feeling is that it is not really so because the employer

fears that they would demand from time to time increase of wages, otherwise start strikes ; and in order to satisfy them and to some extent appease the more moderate element they start these provident funds. However, I do not say it is a bad thing to start these provident funds. After all, the poor workers depend on the provident fund in their old age. And therefore they would not like to lose this provident fund on account of the omissions and commissions of the employers due to bad business which may lead to the ruin of this very fund. Therefore it is that the employees are most anxious to see that this fund is secure.

Another point that has been raised by my Honourable friend, Sir Homi Mody, is that the investments in which they have placed these provident funds secure greater interest to the workers ; but the workers are more anxious to see that under no circumstances do they lose those funds, and therefore they are anxious that they must be in the best securities so that they can depend on it in their old age. These are the two points on which I wanted to reply, and my Honourable friend, Mr. Joshi, stated the other aspects of the case. Therefore, I support the amendment moved by Mr. Joshi.

Prof. N. G. Ranga : Sir, I support this amendment moved by my Honourable friend, Mr. Joshi. The question of the distribution of these funds in the event of any company going into liquidation was raised by my Honourable friend, Sir Homi Mody. But, Sir, he ought to have been aware of the fact that whenever any particular fund is constituted there are certain rules framed for governing that particular fund. And therefore he need not be afraid that the workers would be at a loss as to how to distribute that particular fund in the event of the particular company going into liquidation when they have to distribute that money amongst themselves. The money has got to be there and must be there and we only want that it should be secure and it can be better secure if those funds are invested in trustee securities. It may be that some of the employers are really good men and it may be that many of them are anxious to secure the welfare of the workers as is professed by my Honourable friend, Sir Homi Mody. But at the same time he cannot deny the fact that there may be employers who play ducks and drakes not only with their own money but with the money of their employees, who conduct their affairs in such an unbusinesslike manner as to jeopardise the position of the whole company and thereby jeopardise the position of the funds invested in their company on behalf of these various welfare schemes. There is later on another amendment in the name of my Honourable friend, Mr. Ananthasayanam Ayyangar, and when it comes up an opportunity will be offered to the House to say what it likes in regard to the manner in which the accumulated funds of these various welfare schemes are to be placed in the trustee securities. Certainly that amendment, if accepted, will help my Honourable friend, Sir Homi Mody, and his constituents to adjust themselves to changing conditions and thus help themselves as well as the workers. I therefore sincerely hope that the Honourable Members of this House will accept this very moderate amendment moved by my Honourable friend, Mr. Joshi, and help the workers and secure their future.

Mr. Muhammad Azhar Ali : Sir, I do not belong either to the capitalist group, that is, the employers, nor do I belong to the group of my labour friends who represent labour here. The part which labour plays in accumulating these provident funds is considerable. In this amendment the point is to see whether the amount of provident funds

[Mr. Muhammad Azhar Ali.]

is secured more properly than it is so far, and I think it is in the interest of every one of us here to secure this fund to the poor people and wage-earners. If my Honourable friend, Sir Homi Mody, can suggest today that this provident fund is in no way lost under any enactment of the Government of India to the poor wage-earners, I am prepared to vote with him. But unless and until he shows that this provident fund will never be lost to the wage-earners or to the poor people I suppose we have to support this amendment. Sir, the question of priority will only arise when the funds are to be secured or when funds are to be found anywhere. But here the question is that these funds are invested in good securities. It is a liquid amount and if it is invested in different funds and unreliable securities nobody knows in what condition these funds, etc., are. So unless and until we know that the security of this fund is in every way properly provided in any enactment, I suppose whether the motion comes from the labour Members or whether it comes from some other side, Government ought to see that lakhs and lakhs which are earned by the hard labour and the sweat of the poor people should be secure and be put in better and sure securities rather than in unreliable business and lost in the long run. So I support this amendment.

The Honourable Sir Nripendra Sircar : Sir, the history of this clause is that we originally suggested, on Mr. Sen's 4 P.M. recommendation, that the whole of the fund, that is to say, the employer's and the employee's contributions, should be invested in trust funds. That was the proposal of Mr. Sen. In the Select Committee the kind of compromise which was arrived at is embodied in section 282A (2) : Honourable Members will notice in the list of amendments that an amendment has been given by my Honourable friend, Mr. Ananthasayanam Ayyangar, No. 250, which I shall read for the purpose of making a submission to the House :

“ Provided that in case of monies accrued or realised or set apart but not invested before the passing of this Act they shall be invested in securities aforesaid within seven years from the passing of this Act in such instalments, and in such manner as the Local Governments may prescribe generally or specially on their behalf.”

I think he will correct me if I am wrong, but this amendment, if it is accepted, apart from anything else, extends only to the contribution of the employee....

Mr. M. Ananthasayanam Ayyangar : After Mr. Joshi's amendment. I have given in an amendment, No. 247, practically on the same lines as the amendment that he has moved. I contemplated that this might go along with 247—no doubt it is a mistake and an error. Thus the funds should be not only for the contribution by the employees, but also for the contribution of the employers ; but as it stands it is an amendment to sub-section (2)—that means contribution by the employees alone.

The Honourable Sir Nripendra Sircar : I was thinking of No. 250. If No. 250 is accepted, that will only mean that the employee's contribution will be invested and not the employer's.....

Mr. M. Ananthasayanam Ayyangar : As it stands, unfortunately.

The Honourable Sir Nripendra Sircar : What I am going to suggest to the House for its consideration is this : after giving the best consideration which we could, we shall be quite prepared to accept this idea—I

have not got an amendment ready—possibly there will be no time for such an amendment here—I do not know—but the idea is this : that instead of seven years, the companies should be given ten years ; but the money to be invested will be not merely the employee's half, but the whole fund. That drafting will require a little care, because we are giving old companies ten years within which to put their money in trust funds. But obviously it follows that will not apply to the interest which is accruing : the accruing interest must be put in at once. But for what has accrued up to the time of the commencement of the Act, I would suggest giving them ten years and I would not like the Local Government to be brought into the scene at all. The House should devise some means like equal instalments or things of that kind ; but my difficulty is that this amendment requires drafting and no draft is ready. Have you got one ready ?

Mr. M. Ananthasayanam Ayyangar : Yes : that to Mr. Joshi's amendment the following be added—that is No. 250—in the place of seven years, insert ten years, and in the place of Local Governments.....I shall read out the whole.....

The Honourable Sir Nripendra Sircar : I do not think amendment No. 247 carries out the idea which I gave to the House. It is quite true that 247 applies to the whole fund.....

Mr. M. Ananthasayanam Ayyangar : Read with 250 : with the change to ten years and equal annual instalments.

The Honourable Sir Nripendra Sircar : My difficulty is this, I may tell the House. We may be generally agreed to its principle but about the drafting I do not know that I should really be able to produce a draft in five minutes' time.....

Mr. F. E. James : Sir, may I make a suggestion to my Honourable friend ? If a new amendment is to be produced by the Honourable the Leader of the House, may I not suggest that that be produced in the Council of State ? (*Cries of "No."*) The point is this : that at this last hour of what I hope is the last day of the consideration of this Bill, it is very difficult, in a hurried consultation, to produce an amendment on an important matter like this, that is going to be satisfactory to everybody. If the Honourable the Leader of the House states very clearly the principle embodied in these amendments which will be acceptable to him, I suggest that that might be brought up in the Council of State in an amendment there.

The Honourable Sir Nripendra Sircar : Sir, I am quite willing to accept the idea of my Honourable friend if it is acceptable to the House ; that is to say, it may be noted in the records that if the clause as it stands be passed, I give an undertaking in this House that I shall move an amendment in the Council of State and shall have it supported by the supporters of Government : the official bloc will support it : and in the Council of State the official bloc is not absolutely negligible. (*Laughter.*) My undertaking may be recorded because it is a very important matter : I undertake to have an amendment moved to the following effect, namely :

Provident funds, that is, the whole amount of it, composed of the employers' and employee's contributions, should be invested in trust securities : that for funds which have accrued up to the time of the passing of

[Sir Nripendra Sircar.]

this Act, companies will be allowed ten years' time within which to invest the funds in trust securities ; the amounts to be invested should consist of equal instalments spread over ten years—I am using rather colloquial language, but I am giving an idea.

I undertake to have an amendment to that effect moved in the Council of State. I find it rather difficult now to frame an amendment.....

Mr. M. S. Aney (Berar Representative) : You wanted to say something about interest also.

The Honourable Sir Nripendra Sircar : Yes : accruing interest, that is to say, since the passing of the Act and before the passing of the Act, interest which accrues must be invested without any reference to this question of instalments of ten years. Is that clear ?

Mr. Bhulabhai J. Desai : Annual instalments.

The Honourable Sir Nripendra Sircar : Yes ; I mean annual instalments.

Prof. N. G. Ranga : Provident funds or any other funds also ?

The Honourable Sir Nripendra Sircar : I said provident funds. About welfare funds, I have made no statement and I have given no undertaking ; and I do not know what those funds are : what their conditions are, I do not know and I do not know anything about them really.

Mr. President (The Honourable Sir Abdur Rahim) : As a result of the suggestion, do I understand that amendments Nos. 246 and 250 will be passed now ?

The Honourable Sir Nripendra Sircar : I suggest that the amendments be all withdrawn and that the clause be passed as it stands, subject to the undertaking given by me.

Mr. N. M. Joshi : I am very grateful to the Honourable the Leader of the House for the assurance which he has given, but my amendment has some addition to the proposal which he has made. I want not only the provident funds to be safeguarded but any other funds for the welfare of the employees.

The Honourable Sir Nripendra Sircar : But you move an amendment in the Council of State to my amendment.

Mr. N. M. Joshi : It will be difficult to move an amendment in the Council of State. What I would suggest is—let me have the satisfaction and the opportunity of moving my amendment today. We shall see what the fate of my amendment is. If my amendment is carried, it is open to the Government to move an amendment to the amendment in the Council of State.

The Honourable Sir Nripendra Sircar : That cannot be done. Surely I cannot agree to that. My Honourable friend cannot have it both ways. It is open to him to say that he does not agree to this kind of undertaking and we go on in the ordinary course.

Mr. N. M. Joshi : I accept my Honourable friend's undertaking as far as it goes.

Some Honourable Members : No, no.

Prof. N. G. Ranga : Is there anything in the undertaking given by the Honourable the Law Member in regard to the future ? As far as the future is concerned, all these provident funds should be invested in trust securities. Is that made clear ?

The Honourable Sir Nripendra Sircar : I desire to make it clear that the undertaking which I have given cannot be split into two parts. That undertaking is conditional on the clause being passed as it stands. If my Honourable friend, Mr. Joshi, is going to try his luck on his amendment, then my undertaking goes.

Mr. N. M. Joshi : This is coercion, but unfortunately I have no other choice but to accept this coercion. I do not press my amendment. I ask for leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 113 of the Bill, in sub-section (3) of the proposed section 282B, after the word and figure ‘ sub-section (1) ’ the words and figure ‘ and sub-section (2) ’ be inserted.”

This is not covered by the undertaking.

The Honourable Sir Nripendra Sircar : We are willing to accept it, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 113 of the Bill, in sub-section (3) of the proposed section 282B, after the word and figure ‘ sub-section (1) ’ the words and figure ‘ and sub-section (2) ’ be inserted.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 113 of the Bill, in sub-section (3) of the proposed section 282B, the words ‘ deposited by him with the company ’ be omitted.”

The Honourable Sir Nripendra Sircar : I accept that.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 113 of the Bill, in sub-section (3) of the proposed section 282B, the words ‘ deposited by him with the company ’ be omitted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 113, as amended, stand part of the Bill.”

The motion was adopted.

Clause 113, as amended, was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 114 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 114 of the Bill, in sub-clause (d) after the word ‘ transferee ’ the words ‘ and the transferor ’ be inserted.”

The Honourable Sir Nripendra Sircar : I want to rise to a point of order, and argue it because that will apply equally to certain other amendments which have been given notice of by Pandit Govind Ballabh Pant. The point is this. This House has accepted clause 7. Clause 7 says :

“ It shall be deemed to contain regulations identical with or to the same effect as regulation 56, regulation 66, regulations 78, 79....”

Before 105 was incorporated, 105 was amended. I submit that we cannot allow now these regulations which have been compulsorily included, which must be in the regulations as they stood at that time, to be changed. The serious consequences which will accrue will appear if I take my Honourable friend Pandit Pant's amendment by way of illustration although it has not been moved as yet but the argument will apply equally to the one under consideration. He wants to amend regulation 78 of Table A. The result of that will be that two-thirds of the directors will have to be elected by the shareholders. We agreed to another amendment, on the footing of regulations as they stand. May I take 79. They all stand on the same footing :

“ The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

No. 80. A retiring director shall be eligible for re-election.

No. 81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.”

Therefore, what has now been included means that at a general meeting shareholders can fill up by election only the offices vacated by elected directors. The position is that at the first ordinary meeting the whole of the directors shall retire from office and at the ordinary meeting every subsequent year one-third of the directors for the time being or if the number is not three or a multiple thereof, then the number nearest to one-third shall retire from office. It seems clear therefore that on the regulations as they stand, the shareholders fill up the vacancy caused by the retirement of the elected directors. That is now going to be changed. Of course that has not come up yet. It is now going to be changed and my friend wants to extend election by shareholders of retiring directors. not only elected retiring directors but of all retiring directors who may have to retire by reason of Dr. Khare's amendment. Sir, I remind you of another amendment. I believe my Honourable friend, Mr. Satyamurti, moved that the maximum of directors to be appointed by the managing agent will be one-third. Very well, Sir, we accepted that. Now, if Mr. Pant is allowed to move his amendment, the result will be that the shareholders would elect two-thirds, leaving one-third to managing agents including the special directors. That is to say, if there are six directors, we have accepted an amendment by reason of which the managing agents cannot elect more than 2 and the shareholders, if the proposed amendment of Pandit Pant is carried, must elect 4. If there is a director elected by the debenture holders and another director on behalf of Government, then

the managing agent cannot appoint any one at all. The whole of his one-third is eaten up by the special directors. My point is this that we who have voted for compulsory inclusion of 78 and 81 and others mentioned in that clause and have done so on the footing that clause 78 means what it states. If you are going to amend those articles, it will mean going over the whole thing *de novo*. We shall have to fight out the questions which have been settled. My point of order is that my friends cannot now change or amend in any way the articles which have been compulsorily included and which must remain as they stood at the time of the inclusion. That is my point of order. I have referred to Mr. Pant's amendment because the argument will be the same. The argument equally applies to Mr. Ayyangar's amendment.

Pandit Govind Ballabh Pant : I do not want to enter into the merits of my amendment or to try to elucidate it. This is not the stage. I am only concerned with the point of order. I want to understand the position of the Law Member. Does he contend that we are bound by the language of Articles 78, 79, 80 and 81 as they now stand in Table A of the existing Act and no change can be made therein.

The Honourable Sir Nripendra Sircar : That is what I argued so long.

Pandit Govind Ballabh Pant : I accept that position.

Mr. M. Ananthasayanam Ayyangar : With very great respect I submit that it does not apply to this case. My amendment relates to 20, not to 78, unless the argument of the Law Member is that all the articles are not to be revoked.

The Honourable Sir Nripendra Sircar : I never said so.

Mr. M. S. Aney : I would like to point this out to the Law Member. If we read clause 114, I find some reference made to Regulation 78. An amendment to that is suggested. The whole argument of the Law Member—and the position he has taken up seems to be perfectly correct—is that those regulations which have been made compulsory cannot be changed or altered by us because we accepted them on the footing on which they stand today. The amendments which are suggested in clause 114 to those articles will have to be dropped in that case.

The Honourable Sir Nripendra Sircar : I may explain the position further. If you begin from page 65 of this Bill, clause 114 is this :

In the First Schedule to the said Act, in Table A, then we have (a), (b), (c), (d) and so on. I draw your attention to (k) for instance. With reference to my friend's observations, 56 is one of those included and 66 has already been included. 71 is already included and going over to the next page, (g) 78 is included and (r) 82 is included.

Pandit Govind Ballabh Pant : What do you mean by included ?

The Honourable Sir Nripendra Sircar : Compulsorily included in the articles.

Pandit Govind Ballabh Pant : Not these amendments ?

The Honourable Sir Nripendra Sircar : No. I am referring to the numbers which have been compulsorily included and going to the next

[Sir Nripendra Sircar.]

page I think (y), regulations 112, 113, 114 and 116. Therefore the position is this. If my point is sound and apparently it suits my Honourable friend, because he accepts my argument.....

Pandit Govind Ballabh Pant : It suits me.

The Honourable Sir Nripendra Sircar : I am glad to hear of something which suits you. In clause 114 at least, 6 or 7 of these items have got to be taken out. If we take those out, what remains is those regulations which are models in Table A. Nobody need care for the model. They are not bound to include them in the articles. In the special circumstances, I should be allowed to move an amendment that clause 114 be deleted, unless you, Sir, allow clause 114 to be put, after taking out the paragraphs which relate to those Regulations in Table A, which have been compulsorily included by clause 7.

Pandit Govind Ballabh Pant : I have no quarrel. This is an official Bill. We are here at your disposal. Whatever advice we give, whatever suggestions we make, it is to help you. It is open to you to withdraw the Bill completely tomorrow. We are here as pawns in the game, placing before you our suggestions for your acceptance, if you care to approve of them. If you think that it will be helpful to the company in framing their regulations on the basis of these model regulations, then you may proceed with them but I concede that so far as these optional regulations are concerned, one need not particularly worry about their final shape.

The Honourable Sir Nripendra Sircar : Sir, I will make my position perfectly clear. I should be glad if the Chair will allow me to retain 114 after omitting six or seven items,—that is to say, those which relate to articles in Table A compulsorily included. Then, of course, I will move for acceptance of clause 114, for re-numbering of the paragraphs and take only those which are not hit by the arguments which have been accepted. If that is not permitted, then I have got to delete clause 114,—not that I prefer its deletion, but I prefer retaining those sub-sections, which relate to articles which have not been compulsorily included.

Pandit Govind Ballabh Pant : I submit, Sir, that that difficulty will be removed if you will exercise your power. Certain matters have already been decided finally. The words which appear in this clause 114 and are inconsistent with these decisions are ruled out automatically. Then, the rest of the clause will deal only with those clauses which are not compulsorily included.....

Mr. President (The Honourable Sir Abdur Rahim) : I suppose the procedure will be to drop out from clause 114 these items ?

Pandit Govind Ballabh Pant : We might proceed with this clause 114 and treat those which refer to the regulations already adopted as having vanished or having been deleted ?

Mr. President (The Honourable Sir Abdur Rahim) : Will that suit the Honourable the Law Member ?

The Honourable Sir Nripendra Sircar : Sir, the numbers of those which are hit by my argument are, (k), (n), (o), (q), (r), (v) and (y). I make it seven, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Then you want them to be omitted ? Amendment moved :

“ That in clause 114 of the Bill, in sub-clause (d) after the word ‘ transferee ’ the words ‘ and the transferor ’ be inserted.”

Mr. Susil Chandra Sen : I am afraid I will oppose this amendment and for the reason that this is unnecessary. The House will remember that a very similar amendment was moved by my Honourable friend, Mr. Soni, on similar lines when we came to the clause dealing with the registration of transfers. Sir, the reasons which were then advanced by me hold equally good now and I oppose it, and I do not propose to repeat those reasons.

Mr. M. Ananthasayanam Ayyangar : Sir, may I point out that in the Bill at page 6, clause 15, the proposed sub-clause (4) of the proposed section 34, says :

“ If a company refuses to register the transfer of any shares or debentures, the company shall, within two months from the date on which the instrument of transfer was lodged with the company, send to the transferee and the transferor notice of the refusal.”

The notice of refusal should go both to the transferor and the transferee. That has become a compulsory operation. In the articles notice to the transferee alone is provided for. All I am asking is—let this be brought into tune with the other one made compulsory.

Mr. Susil Chandra Sen : Even in that view, I do not agree. The transferee is the real person affected and notice to him is sufficient but if my friend is keen I will not press the objection.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 114 of the Bill, in sub-clause (d) after the word ‘ transferee ’ the words ‘ and the transferor ’ be inserted.”

The motion was adopted.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I beg to move :

“ That in clause 114 of the Bill, after sub-clause (s) the following be inserted :

‘ (sss) in regulation 97 the words ‘ of the year or any other undistributed profits ’ shall be added at the end ’.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 114 of the Bill, after sub-clause (s) the following be inserted :

‘ (sss) in regulation 97 the words ‘ of the year or any other undistributed profits ’ shall be added at the end ’.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 114, as amended, stand part of the Bill.”

The Honourable Sir Nripendra Sircar : Sir, I would suggest that clause 114, omitting sub-clauses (k), (n), (o), (q), (r), (v) and (y), be put.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 114, as amended, omitting sub-clauses (k), (n), (o), (q), (r), (v) and (y), stand part of the Bill.”

The motion was adopted.

Clause 114, as amended, omitting sub-clauses (k), (n), (o), (q), (r), (v) and (y), was added to the Bill.

Clause 115 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 116 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 116 of the Bill in the proposed Form F of the Third Schedule.... ”

The Honourable Sir Nripendra Sircar : Sir, I objected yesterday to anything appearing on List No. 13 being moved because notice was given only yesterday.

Mr. M. Ananthasayanam Ayyangar : May I say, Sir, in reply that this very same amendment stands in the name of Mr. Satyamurti.

The Honourable Sir Nripendra Sircar : I am not objecting to Mr. Satyamurti's amendment. I am objecting to the amendment of my Honourable friend which appears on List No. 13.

Mr. M. Ananthasayanam Ayyangar : Please permit me to make my representation to the Chair to which I am entitled. Amendment No. 261 on the printed list stands in the name of Mr. Satyamurti and I have given notice of an identical amendment.

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member gave notice of this amendment only yesterday.

Mr. M. Ananthasayanam Ayyangar : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Then, I cannot allow it to be moved.

Babu Baijnath Bajoria : Sir, I move :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’ letters ‘ e.g. ’ occurring under the sub-head ‘ Stock in Trade ’ be omitted.”

Sir, this is the smallest amendment. I only want the two small letters, ‘ e.g., ’ to be deleted. On page 75 of the Bill the following item appears :

“ Stock in Trade (Stating mode of valuation, e.g., cost or market value.) ”

I want these letters, ‘ e.g., ’ to be omitted. What I want is that the stock in trade should be valued either at cost or market value. If these letters, ‘ e.g., ’ are there, then it is open to the managing agent or the directors to value the stock in trade in any other manner. It has been found in practice—and it is a very bad practice—that they value these stocks at or under market value arbitrarily. Supposing, the price of

goods is Rs. 7 and the cost price is Rs. 5, then even on the balance-sheet they show the price as Rs. 3. So, I request the Leader of the House to accept my amendment because that will be the proper method of valuing the stocks. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assers ’ letters ‘ e.g. ’ occurring under the sub-head ‘ Stock in Trade ’ be omitted.”

Sir Cowasji Jehangir : Sir, I oppose it.

Sir H. P. Mody : Sir, I also oppose it.

Mr. M. Ananthasayanam Ayyangar : Sir, I support this amendment. No doubt the House is a little impatient now but I contend that the whole value of the Bill stands upon this amendment and for this reason. The object of the balance-sheet will be frustrated if the stock in trade is not assessed properly—either the original cost is not given or, at any rate, the market value is not given. I would only request the Honourable Members to turn to the opinion of the Bombay Shareholders Association where in various ways it has been shown how these managing agents have tried to show the bloated price of the stock.

Sir Cowasji Jehangir : That is not the object of the amendment. The object is to give more dividends.

Mr. M. Ananthasayanam Ayyangar : Whatever the object of my friend, the Mover, may be, so far as the amendment is concerned, I am entitled to say that with regard to the balance-sheet it is intended that the assets of a company might consist of stock in trade. Now, in assessing the balance of profits of the liabilities over the assets or the assets over the liabilities, how do you arrive at the value of assets. It is said that so far as the balance-sheet is concerned, these letters, ‘ e.g. ’, may mean that the original cost or the market value was highly bloated up or lowered down. There have been a number of such cases and I will mention, in this connection, a case which happened in Ahmedabad. It was the case of Seth Narsinh Lal Lalubhai, care of the Ahmedabad Astodia Manufacturing Company Limited, Ahmedabad. The balance sheet was reviewed by the auditor.

The Honourable Sir Nripendra Sircar : I am the only man who is listening to you. No other man is listening to you.

Mr. M. Ananthasayanam Ayyangar : I do not care whether anybody listens to me or not. The reporter will take down my speech all right. I am only sorry that this matter has come up practically at the fag-end of this Bill. I can understand the impatience of the Honourable Members. But this is an important matter and I crave the indulgence of the House for five minutes. The report shows that the cost of cloth was one lakh of rupees. There has been an inflation of stock of yarn to the extent of about one lakh of rupees. Then, the percentage of the value of cotton consumed in relation to cloth and yarn produced is much higher in 1932 than in 1930. So, the approximate cotton stock inflation is at least Rs. 50,000. Lastly, in winding up he says : “ Statement showing the amount of liabilities for expenses incurred up to 31st December 1930 but

[Mr. M. Ananthasayanam Ayyangar.]

not included in the 1930 published Balance Sheet and also the approximate amount of inflation of stock on hand on 31st December 1930. Over estimation of closing stock :

In cloth	..	..	..	..	1,00,000
Yarn	..	..	..	..	1,00,000
Coal	..	..	..	..	8,000
Bardan	..	..	..	..	2,000
Cotton	..	..	..	..	50,000
Coal ashes	..	..	..	..	2,500
Bobbin	..	..	..	..	3,000.

In all, there was an inflation of the value of the stock in trade to the tune of Rs. 2,65,500. I will therefore say that if it is left to the sweet will and pleasure of these persons they will make it appear that all is well with the company and will give a very rosy picture of the whole show. They can show the value of an article worth only one rupee as Rs. 50,000. I will now ask Honourable Members to kindly refer to page 143 of the opinion of the Bombay Shareholders Association where a man on oath admitted how this over-valuation is made.

“ Cotton in stock was 13,500 maunds approximately. The price thereof was fixed at Rs. 5 per maund. Market price was about Rs. 50 per maund.....Our furniture is worth Rs. 20,000 or so. Its value was given Rs. 431.”

Sir, these are the various ways in which the market price is tried to be covered up. These companies value their stock in any manner they like. *e.g.*, (a) at cost (b) at market price (c) under cost (d) at considerably under cost (e) at or under-cost (f) at managing agent's valuation (g) at valuation (h) below market rate (i) at approximate selling price (j) at cost or below market rate, etc. Therefore, Sir, the object of the amendment is, let them not value the stock as they please. Let one principle be adopted and let it be either on cost price or market price. The balance sheet is intended to be a guide to the shareholders and it is intended to serve as a notice as to how the affairs of the company are progressing. If it is left to the sweet will and pleasure of the directors and value it as they like, they may adopt one process one year, namely at the original cost price or at the market price and next year and so on, with a view to make it appear either progressive or favourable. If they are anxious to down the dividends, they may show huge losses also. In these circumstances it is absolutely necessary to fix that they must either value it on the cost price or the market price. Sir, I heartily support the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’ letters ‘ *e.g.*, ’ occurring under the sub-head ‘ stock in trade ’ be omitted.”

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar : Sir, I want to move amendments Nos. 263 and 264 together. They relate to the same subject.

Mr. President (The Honourable Sir Abdur Rahim) : How can you do it ?

Mr. M. Ananthasayanam Ayyangar : Then, I will move first amendment No. 263. I beg to move :

“ That in clause 116 of the Bill in the proposed Form F of the Third Schedule under the head ‘ Property and Assets ’ after the sub-head ‘ Investments ’ the words ‘ showing the mode of valuation, *e.g.*, cost or market value ’ be inserted.”

Sir, this is going behind the present Table. Under the existing Act in Form F, the valuation of the investments is to be given and the nature of the investments also should be given.

If you refer to page 97 of the blue book containing the present Companies Act, you find :

“ Investments : (Nature of investment and mode of valuation, *e.g.*, cost or market value).”

In the amended Bill the nature of investments is amplified :

“ Investments :

Distinguishing :

- (i) Investments in Government or trust securities,
- (ii) investments in shares, debentures or bonds (showing separately shares fully paid up),
- (iii) investments in shares, debentures or bonds of subsidiary companies,
- (iv) immovable properties showing the mode of valuation, *e.g.*, cost or market value.”

Because the valuation as given in the amended Bill is given only to immoveable properties whereas in the existing Act all the items of property investments have to be valued, I therefore suggest the insertion of the words ‘ showing mode of valuation, *e.g.*, cost or market value ’. It appears as if the mode of valuation is only immoveable property. This is a mistake and a glaring omission. I hope the Honourable the Leader of the House will accept my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’ after the sub-head ‘ Investments ’ the words ‘ showing the mode of valuation, *e.g.*, cost or market value ’ be inserted.”

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar : Sir, I beg to move :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’ and the sub-head ‘ Investments ’ in part (iv) the words ‘ showing the mode of valuation, *e.g.*, cost or market value ’ be omitted.”

I am now giving the Honourable the Law Member another opportunity to correct the mistake that has been there and to make this Bill as good as possible without any inconsistencies therein.

The Honourable Sir Nripendra Sircar : It was not my fault that the previous amendment was declared negatived.

Mr. M. Ananthasayanam Ayyangar : Your voice “ Ayes ” did not reach the ears of the Honourable the President, and so he declared the motion negatived. The Honourable Member can even now rectify

[Mr. M. Ananthasayanam Ayyangar.]
that mistake which has crept into the Bill. I am only trying to bring it in accordance with the existing Act. Let it not be made worse. Without making any further speech, I commend my amendment for the acceptance of the House.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’ and the sub-head ‘ Investments ’ in part (iv) the words ‘ showing the mode of valuation, *e.g.*, cost or market value ’ be omitted.”

The motion was adopted.

Babu Baijnath Bajoria : Sir, I beg to move :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’, the letters ‘ *e.g.*, ’ occurring in part (iv) of the sub-head ‘ Investments ’ be omitted.”

Sir, the same argument applies and I do not want to make any speech in support of this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’, the letters ‘ *e.g.*, ’ occurring in part (iv) of the sub-head ‘ Investments ’ be omitted.”

Mr. T. Chapman-Mortimer : Is this amendment really in order ?

Mr. President (The Honourable Sir Abdur Rahim) : It is too late to raise that point now. The question is :

“ That in clause 116 of the Bill, in the proposed Form F of the Third Schedule, under the head ‘ Property and Assets ’, the letters ‘ *e.g.*, ’ occurring in part (iv) of the sub-head ‘ Investments ’ be omitted.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 116, as amended, stand part of the Bill.”

The motion was adopted.

Prof. N. G. Ranga : Sir, I move :

“ That after clause 116 of the Bill, the following new clause be added :

‘ 117. Every company incorporated under this Act shall—

- (a) give the benefit of one-fourth of the profits to its workers and employees, and
- (b) institute adequate schemes of welfare, old age pensions, insurance against sickness, education of workers’ children, their housing and adult education, the total outlay not being less than one-twelfth of the wage bill ’.”

What I have to say on this I have said in the course of previous amendments. I, therefore, move.

Sir H. P. Mody : Sir, on a point of order, this Bill is not intended
5 P.M. for the purpose of distributing profits or framing of
welfare schemes. I, therefore, submit that the whole
of this amendment is out of order.

Mr. President (The Honourable Sir Abdur Rahim) : Yes, I hold that it is out of order.

Mr. Susil Chandra Sen : Sir, there is one matter to which I am bound to draw your attention. Amendment No. 161 was passed yesterday, but I find that in point of drafting it requires certain alterations. If you will look at amendment No. 161, you will find this :

“ 2B. In sub section () of section 101 of the said Act for the word ‘ twenty ’ the word ‘ eighty ’ and for the word ‘ thirty ’ the word ‘ ninety ’ shall be substituted.”

But if you look at clause 52, the opening words are that clause (1) and (2) of section 101 will be replaced in a certain manner. Therefore it does not fit in as an amendment to that. The clause will have to run like this :

“ 52. In section 101 of the said Act—

(a) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :

‘ (1) No allotment shall be made of any share capital of a company offered to the public....’

Several Honourable Members : We have not got any copies of that.

Mr. Susil Chandra Sen : I have circulated the amendment, and if my friends will see this they will find that this is merely a drafting amendment.....

Several Honourable Members : Why not take it to the Council of State ?

The Honourable Sir Nripendra Sircar : Sir, as objection has been taken and this is a purely formal matter, I do not mind if it stands over. As I have got to move one amendment in the Council of State, I shall move this also there.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 1 stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Nripendra Sircar : Sir, I move :

“ That the Bill, as amended, be passed.”

There are two clerical mistakes which can be corrected in the third reading stage. These two will be moved by my Honourable friend, Mr. Sen. They are very minor matters indeed.

Sir, I notice from the record which I have got here that today is the 18th day, and I cannot believe that anybody on the 18th day at ten minutes past Five will be willing to lend his ears to anything that I have to say. (*Cries of “ Go on.”*) I do not propose to make a long speech, but I shall be quite failing in my duty if I did not inform the House that throughout my struggles with this Bill I have received nothing but the heartiest co-operation from every section of the House. That only shows that the cause I have taken up is a deserving one.

[Sir Nripendra Sircar.]

There is one matter which I would have liked to go into if I had the time, at greater length : but I remember my Honourable friend, Sir Leslie Hudson, gave us the warning that we have done wrong in including Article 107 of Table A. He gave the warning that business will come to grief or rather will be seriously inconvenienced and then our successors will have to amend the Bill. Of course, anything coming from my Honourable friend is entitled to serious consideration. But the more I think of it the more I am convinced that he is wrong. The point was that that kind of disclosure required by Article 107 of Table A is particularly objectionable in the case of mining companies. I took the trouble of sending for some reports of mining companies. I have got them here and I find that they have regularly disclosed not merely what they will be compelled to do now under Article 107 but a lot more. As I said, I took some trouble after that warning was given to me that it would spell disaster to mining companies to comply with article 107. I find for instance this is a tin mining syndicate—the Burma corporation : I think the Honourable Mr. Robertson represents this constituency and whatever difficulties he may have urged here, the company found none in giving all the information and a lot more. I thought possibly Burma might be peculiar ; but I have got four of the reports of Bengal coal mines and I find that the argument advanced is wholly untenable and therefore I hope that the warning will not materialise, and I may inform my Honourable friend that before I came to the conclusion that I ought to resist exclusion of Article 107, I took independent advice of a person who is not connected with any Indian affairs but who is in His Majesty's Service in England, and the advice I received strengthened me in my conviction that all these objections which were advanced were not really so formidable as they were made to appear....

Mr. Sri Prakasa : What was the third point ? It never came.

The Honourable Sir Nripendra Sircar : The third point did not come, because my Honourable friend, Mr. Sri Prakasa, behaved so nicely that the occasion did not arise. (Laughter.)

The only other matter I want to tell the House is this : I find from conversations with some of my Honourable friends, specially my Honourable friend, Prof. Ranga, that whenever I have supported an amendment which to him seemed to help the managing agents, he had the suspicion that it was an unholy combination between Government and the European bloc, and the managing agents and the capitalists. Sir, may I assure him sincerely that in these points which were made by me for reducing the amount of the proposed further encroachments of managing agents, I was not moved by any tender concern for the European managing agents. Most of the big European managing agents are in such a position financially with such effective management that their shareholders will not be so foolish as to get rid of them. They run very little danger : if a special resolution is wanted they will have it the next week. But I was more concerned with the Indian managing agents who have not the same financial resources and whose system as we have all heard here is affected by the vice of what has been called heredity—a condition which does not apply to British managing agents. Therefore I can assure my Honourable friend that

although he and I may disagree as to what ought to be done about a particular measure with reference to managing agents, I was not out to protect the interests of one community against another. I had more anxiety for the Indian than the British managing agent.

Sir, I should say one word before I resume my seat, that I gratefully acknowledge the immense and invaluable services which have been rendered and the trouble that has been taken by Mr. Sen. (Cheers.) I do not desire at this very late hour to detain the House any further. and I move.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill, as amended, be passed.”

Mr. Bhulabhai J. Desai : Mr. President, in the first instance, I wish to join the Leader of the House in acknowledging and appreciating the work, the industry and the lucidity with which Mr. Sen has been able to present to the House the subject matter of discussion which has ended after eighteen days. During the course of such a Bill, it is not uncommon that either side may feel that a particular point of view is unduly stressed. But the same assurance that the Honourable the Leader of the House gave to the House I am in a position to give, that so far as in us lay, the principles for which we stood we have attempted to incorporate into the draft within necessary limits of an opposition that can never be an alternative government. We felt undoubtedly that we were at the mercy of Government in the improvement that was being made in the company law I appreciate fully the great advance that has been made ; for I am one of those who during the course of my practice have felt that a great deal of amendment was required since the first Companies Act was passed, and undoubtedly this was a great opportunity in which we felt that we would do our best notwithstanding the sturdy opposition of those who never wish to move an inch further than the year 1835. But so far as the House is concerned it has appreciated some points and rejected the others. Nonetheless we have taken our defeat in the spirit in which we have always taken but I wish to assure the Leader of the House that his services in this particular matter of the amendment of the Companies Act will be appreciated (Cheers) and so far as we are concerned we feel that, though we may not have got all that we wanted, we have to a certain extent improved by way of restrictions on the licences of managing agents, as some people describe it, which personally I never felt it—but undoubtedly we have tried to reconcile the interests of the managing agents, the shareholders and the other interests concerned so far as company law is concerned. I am very glad that the House was able, notwithstanding the strain of the last eighteen days, to arrive at the stage it has done, when we could congratulate everybody on the conclusion of its labours on the Company Bill.

Mr. M. S. Aney : Sir, I take this opportunity of expressing my sincere appreciation of the work done in connection with this Bill by the Honourable the Leader of the House and his able adjutant—if I may call him so—Mr. Sen. This is a Bill which in my opinion will be the charter for years to come on which industrial development in this country will largely depend ; and in view of the importance of a Bill of this nature it was natural that the House should have taken eighteen days to discuss this question. If there was anything in the discussion that was prominent,

[Mr. M. S. Aney.]

it was a spirit of friendliness, a spirit of sportsmanship, and a spirit of genial humour in which all the business was conducted during these days. I am sure those who witnessed the debate these eighteen days would not believe that there is any spirit of acrimony existing between these benches and those benches over there. While I acknowledge the services which have been rendered by the Leader of the House as well as by his other official colleagues who have helped him in the passage of this Bill, I cannot fail to appreciate the work done by some of our stalwart friends on the Opposition Benches also ; particularly, the labour and industry which have been bestowed on the consideration of this Bill by my Honourable friends, Pandit Govind Ballabh Pant and Mr. Ananthasayanam Ayyangar, and my Honourable friend, who is absent, Mr. Satyamurti, cannot be forgotten. It was because of their vigilance that many things which would have remained there unnoticed have been carefully gone into and the Bill has been considerably improved. The popular, that is, the shareholders' point of view has found a great place in this Bill because of the able advocacy of our friends on this side. So, if this Bill has improved, it is the result of the joint labours of the Honourable Members on the Treasury Benches and those on the Opposition Benches. And I wish that there may be many more occasions hereafter for joint collaboration of both the sides in order to give better results in other matters also. With these words I heartily support the motion which has been moved by the Leader of the House. (Applause.)

Sir Cowasji Jehangir : I would be failing in my duty if I did not acknowledge the great impartiality with which the Leader of the House has dealt with this Bill. (Applause.) It was nothing else than the work of a great lawyer, and may I say that during the sittings of the Select Committee and in this House my Honourable friend was in his element. He was doing the work for which he was best fitted and he did it with great efficiency. The Companies Act in future will be known as the Sircar's Companies Act. (Cheers.) I would also be failing in my duty if I did not acknowledge the great impartiality with which every question was considered in the Select Committee by my Honourable friends, Pandit Govind Ballabh Pant and Mr. Satyamurti. (Applause.) Their one object along with that of the Leader of the House was to give to this country the best possible Company Law. If between us all we have failed,—we are not infallible,—perhaps there may be other opportunities to still further improve this Act, but it is a great satisfaction to us all to feel that both the Government Benches and the Opposition, including the Leader of the Opposition who was not a member of the Select Committee, have done their very best for the cause of industry and trade, and may they ever continue to do so. (Applause.)

Sir Leslie Hudson : I should like to add my voice to that of those who have already expressed the appreciation of the House of the patience, the industry, the unfailing good nature and the intimate knowledge with which the Honourable the Law Member has piloted this measure through this House. (Applause.) I too should like to acknowledge the great assistance of Mr. Susil Chandra Sen who has spent so many months over the Bill. (Applause.) If I may add my own personal acknowledgments to both those two gentlemen for all the assistance they have given me personally during the past months, I should like to do so. If I may also add a tribute to the fairness and impartiality with which the fight has

gone on in the House, particularly if I may do so to the managing agents of the Congress Party (Laughter and Applause) and possibly the House will allow me to congratulate Mr. Ananthasayanam Ayyangar on his accession to the Board of that Company as a substitute director in the temporary absence of Mr. Satyamurti. (Laughter.) Our Group here have spent a considerable amount of time and patience over this Bill also. We have had our fights, we have had our knocks, we have emerged from the fight with a certain number of scars, (laughter), but, if I may quote, "bloody but unbowed", but I think on the whole we have accepted it cheerfully. I think I can give the assurance of the European community in this country who are engaged in commerce and industry that they will work this amended Bill for all that it is worth and help to prove that it is a very fine Bill worthy of a very fine author. (Applause.)

Sir H. P. Mody : If speaking on this occasion were to be confined merely to the Leaders of Parties, it might appear to the outside world that we were not celebrating the enacting of the Companies Bill, but mourning the passing away of a colleague. (Laughter.) It is to remove some such unfortunate impression that I crave leave to speak for a couple of minutes. For the last two months some of us, and for the last three weeks, the whole of this House have lived amongst managing agents, directors, auditors and shareholders and we are dead sick of the entire lot of them (Laughter), and I hope it will be many, many years before we are called upon to deal with this tribe again. (Laughter.) There have been two extreme view points expressed both in this House and reflected in the country, one which seeks to think that managing agents can do no wrong and that they are a body of people who have conferred the greatest possible benefit on this country, and the other which thinks that they are nothing better than incipient jail-birds. (Laughter.) Neither side has had its view point adopted in this House and it is largely, if not entirely almost, due to the fact that the handling of this Bill was in the hands of my Honourable friend, the Law Member. (Cheers.) His mastery of principles and of every single detail of the Bill has compelled the admiration of everybody who has had anything to do with it, and if his bulk was not already formidable, I would say that he has added greatly to his stature. (Laughter.)

The Honourable Sir Nripendra Sircar : There is plenty of room at the top. (Laughter.)

Sir H. P. Mody : In a modified form Sir, I may say the same of my Honourable friend, Mr. Suil Chandra Sen. (Laughter.) He started in the wrong way altogether, but as he came into contact with respectable managing agents (Laughter) he began to improve and towards the end he became quite an amiable and lovable person. (Laughter.) I dare say that his unhappy experiences in Bengal gave a twist to his outlook, but on the whole, his later behaviour has exculpated him completely, and I think he may be admitted into grace. There is one pleasant feature of the whole discussion which I would like to refer to, and that is, that party frontiers were almost obliterated. Some of my friends on my right strayed quietly and a little timidly into this side of the House on occasions—I am not referring now to the division lobbies, where our performances were more or less consistent,—but on other occasions we strayed into their fold, and altogether this Bill has been debated on non-party lines. I join in the tributes which my Honourable friends have

[Sir H. P. Mody.]

paid to the Members of the other side who did their best to cut our throats (Laughter), but did it from the best of motives. They have drawn just a little blood, and in view of that, so far as I am concerned, I forgive them all their sins of omission and commission. I have very great pleasure in endorsing all the encomiums which my friends who have preceded me have showered upon the Honourable the Law Member and upon Mr. Susil Chandra Sen. (Applause.)

Mr. Akhil Chandra Datta : When I was listening to the speeches, I was wondering what the definition of the Legislative Assembly was during the third reading of a Bill. It appeared to me that third reading means mutual admiration and the definition of the Assembly during the third reading is a society of mutual admiration. I shall not contribute more to the mutual admiration—not that I do not share that feeling but because we have had enough of it. Let me say, Sir, one or two words about the main features of this Bill. The most important feature is the question of managing agents. I was never of the opinion that the managing agents are the villains that they are in some quarters painted to be. At the same time I always felt that the managing agency house was an Augean stable. I have now the satisfaction of feeling that that Augean stable has been cleared. I now feel that the managing agents have had their wings clipped. Maimed and mutilated they are no longer capable of very great mischief. The managing agent, I may say, is dead but reborn, although reborn beyond recognition. My feeling is that by the provisions that we have been enacting the managing agent has now become responsible to the directors and the directors have now become responsible to the shareholders, and, therefore, it is really a matter for satisfaction that from the point of view of shareholders the Bill is a very great improvement—I am inclined to say—tremendous improvement. Having paid these tributes to the Bill, I do not think it necessary to pay further tributes to those to whom we owe the Bill.

Sir Abdul Halim Ghuznavi (Dacca *cum* Mymensingh : Muham-madan Rural) : Mr. President, we have now concluded our labours in respect of this Company Law Amending Bill which when passed into law will form the quintessence of legal wisdom and legal procedure as applicable to the Company Law in India. Indeed, Mr. President, it forms a milestone in our progress towards ideals which all well wishers of public companies have at heart. While congratulating every section in this House on the tone and tenor of debate throughout and on the high level of criticism, practical and theoretical, obtaining all through, I cannot let this opportunity pass without pointing out with regret that there were attempts at times to widen the gulf between the interests of the shareholders and those of the managing agents instead of bridging it over as a practical businessman would have done. The widening of such a gulf would really have been detrimental to the industrial progress of the country. The view ultimately carried is really a golden mean between the extreme positions and recognises the practical realities of the situation. Further, Mr. President, I shall be failing in my duty if I did not avail myself of this occasion to pay my tribute to my Honourable friend, the Law Member, and to his deputy in this connection, Mr. Susil Chandra Sen, the special officer appointed by the Government, for their labours and the admirable lead they had given throughout the debates and the discussions.

on the Bill. This is quite apart from the months and years of labour which had been given by them to this matter outside this House, which had laid the foundation for what ultimately took shape in this Bill, with the Act as the coping stone and the crowning point. In congratulating these two astute and able Bengali lawyers on their success, may I also suggest that they might join together to bring out a learned treatise on company law and practice which will not only perpetuate their name and reputation in the domain of Indian law but also be of considerable use and assistance in practice and theory to the commercial and mercantile community all over the country.

The Honourable Sir Nripendra Sircar : I will do it if you underwrite the sale.

Sir Abdul Halim Ghuznavi : I will underwrite it for you. It is only right that we should express our lasting gratitude to these two Honourable friends on the able, cool, good humoured and dignified manner in which they have piloted this difficult and complicated Bill through this House, accepting all improvements from whatever quarter they came. Mr. President, I once again congratulate my friends.

Mr. Susil Chandra Sen : Before the Bill is finally passed may I, with your leave and the leave of the House, move certain formal amendments ? They are all clerical amendments intended to make it, as it has been described to be, a perfect Bill.

Sir, I move :

“ That in clause 7 of the Bill, in the second proviso to sub-section (2) of section 17, after the words ‘ shall be deemed to require ’ the word ‘ that ’ be inserted.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 7 of the Bill, in the second proviso to sub-section (2) of section 17, after the words ‘ shall be deemed to require ’ the word ‘ that ’ be inserted.”

The motion was adopted.

Mr. Susil Chandra Sen : Sir, I move :

“ That in clause 40 of the Bill, in sub-section (1) of the proposed section 86G, the words ‘ the director ’ immediately preceding clause (a) be omitted and the word ‘ he ’ be inserted at the beginning of clauses (a) to (g).”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 40 of the Bill, in sub-section (1) of the proposed section 86G, the words ‘ the director ’ immediately preceding clause (a) be omitted and the word ‘ he ’ be inserted at the beginning of clauses (a) to (g).”

The motion was adopted.

Mr. Susil Chandra Sen : Sir, I move :

“ That in clause 40 of the Bill, in sub-section (1) of the proposed section 86G :

(i) in clauses (e) and (g), for the words ‘ such director ’, in both places where they occur in each clause, the word ‘ he ’ be substituted ;

(ii) the word ‘ or ’ be added at the end of clause (g) and for the word ‘ or ’ at the beginning of clause (h) the word ‘ he ’ be substituted.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 40 of the Bill, in sub-section (1) of the proposed section 86G :

(i) in clauses (e) and (g), for the words ‘ such director ’, in both places where they occur in each clause, the word ‘ he ’ be substituted ;

(ii) the word ‘ or ’ be added at the end of clause (g) and for the word ‘ or ’ at the beginning of clause (h) the word ‘ he ’ be substituted.”

The motion was adopted.

Mr. Susil Chandra Sen : Sir, I move :

“ That the clauses be re-numbered and all corrections consequential on the amendments made in the Bill be carried out.”

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the clauses be re-numbered and all corrections consequential on the amendments made in the Bill be carried out.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill, as amended, be passed.”

The motion was adopted. (Applause.)

The Assembly then adjourned till Eleven of the Clock on Thursday, the 8th October, 1936.

LEGISLATIVE ASSEMBLY.

Thursday, 8th October, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

MEMBER SWORN.

Mr. Robert Francis Mudie, C.I.E., O.B.E., M.L.A. (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

PROTECTION TO THE COCOANUT INDUSTRY.

860. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether any memorial has been received by the Viceroy and Governor General, or by the Government of India, from the non-official members of the Cochin Legislative Council, requesting them to consider the necessity for giving protection to the cocoanut industry of India by way of granting protective tariffs against unfair competition from imports ;
- (b) whether they are aware that there are 70 lakhs of people in Kerala affected by the lack of protection to the cocoanut industry ;
- (c) whether they are aware that about a crore of rupees invested in cocoanut gardens have become almost dead capital from 1932 onwards ;
- (d) whether, in spite of the revision of the tariff value effected on 1st January, 1936, matters have not improved and, indeed, there has been an increase in 1936 of imports ; and
- (e) whether they propose to take immediate steps to give effect to the protective tariffs recommended by the Cocoanuts Sub-Committee, and if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir. The memorial was received a few days ago.

(b) and (c). Government have received representations to this effect.

(d) A recent examination of the position by Government indicates that the absolute demand for cocoanuts and coconut products has definitely increased thus increasing imports.

(e) I have nothing to add to the reply which I gave to parts (b) to (d) of the Honourable Member's question No. 497 in the current Session.

Mr. M. Ananthasayanam Ayyangar : May I know what the increase is for the past six months ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I could not give exact figures.

Prof. N. G. Ranga : Is it not a fact that those interested in this industry have been representing to the Government of India the need for further protection for the last two years ?

The Honourable Sir Muhammad Zafrullah Khan : I believe so.

Prof. N. G. Ranga : What action have Government taken in these last two years to give them protection ?

The Honourable Sir Muhammad Zafrullah Khan : No specific protection was given, but last year the tariff values were raised, which gave them a certain amount of relief.

Prof. N. G. Ranga : Is it not a fact that representations were made by several Honourable Members of this House and also by those interested in the production of cocoanuts to the effect that the raising of the tariff values was not enough and that further protection was needed ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, that is so.

Prof. N. G. Ranga : Why is it then that protection has not been given to them yet ?

The Honourable Sir Muhammad Zafrullah Khan : The matter is not so easy as the Honourable Member assumes. I replied to the question to which I have made reference in today's reply that the matter was receiving the consideration of the Government of India.

Prof. N. G. Ranga : Is it not a fact that when the Honourable the Commerce Member himself visited Malabar and Cochin and other parts he said in his reply that the matter was receiving the immediate attention of the Government of India, and he was hoping to be able to afford them adequate protection in the near future ?

The Honourable Sir Muhammad Zafrullah Khan : I never said I was hoping to be able to give them adequate protection in the near future.

Prof. N. G. Ranga : Then what was the assurance that was given to the deputationists ?

The Honourable Sir Muhammad Zafrullah Khan : That the matter would be looked into.

MODEL INSTRUMENT OF ACCESSION.

861. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether the model Instrument of Accession published in the newspapers is correct ; and

- (b) whether this model Instrument has been sent to Indian States, and if so, to whom ?

The Honourable Sir Frank Woyce : My Honourable colleague, the Law Member, is taking much needed and well earned rest, and, with your permission, I will answer his questions.

(a) The draft general clauses of the Instrument of Accession were released to Press on the 15th August, 1936, and a copy of the Press Communiqué has already been placed on the table of the House.

(b) The draft has been transmitted to Indian States.

ARTICLE ENTITLED "THE COURTS AND THE EXECUTIVE" PUBLISHED IN THE *Hindu*.

862. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article entitled, "The courts and the Executive" in the *Hindu* of Wednesday, the 5th August, 1936 ;

(b) whether they have considered, or are considering, the question of acting upon the suggestion in the article, namely, that the courts should be asked to accept as evidence the sworn statement of the police officials, that they had satisfied themselves by questioning unnamed secret agents that the accused was really guilty of the offence with which he was charged ; and

(c) whether they propose to issue to the public a statement that they do not propose to consider any such suggestion ?

The Honourable Sir Henry Craik : (a) I have seen the article.

(b) and (c). No.

POLITICAL PROPAGANDA BY EXECUTIVE COUNCILLORS INTENDING TO CONTEST THE ELECTIONS.

863. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article in the *Hindustan Times* of the 15th August, 1936, entitled, "A Constitution Problem" and an article entitled, "Influencing Elections" in the *Amrita Bazar Patrika* ;

(b) whether they have laid down anywhere that a non-official Executive Councillor who intends to submit himself as a candidate for the first election must be free to defend publicly the policy which he intends to advocate ;

(c) whether they have considered the effect of allowing non-official Executive Councillors, while retaining their office, to carry on political propaganda on the people and especially the voters ;

(d) whether they have agreed that these non-official Executive Councillors may belong to political parties and whether

they may also belong to the Indian National Congress and advocate the rejection of the Government of India Act, 1935 ; and

- (c) whether they propose to lay down either that these non-official Executive Councillors should not carry on political propaganda, or whether they will make them resign their offices and carry on the administration without them, if they desire to stand as candidates in the ensuing provincial elections ?

The Honourable Sir Frank Noyce : (a) Yes.

(b), (c) and (d). The Honourable Member is referred to sub-section (a) of section 307 of the Government of India Act.

(e) Nothing has occurred which in the opinion of Government renders any such action necessary.

Mr. M. Ananthasayanam Ayyangar : May I know, Sir, if Executive Councillors, who are on duty, can stand as congress candidates ?

The Honourable Sir Frank Noyce : I presume, Sir, that they are at perfect liberty to join any party they like.

Mr. M. Ananthasayanam Ayyangar : May I know if they can continue in office right up to the date of the election, and whether it is not likely to prejudice the elections, and therefore such Members should be asked to resign at least three months before the elections ?

The Honourable Sir Frank Noyce : I have nothing to add to the reply I have already given.

Mr. Mohan Lal Saksena : Is it not a fact, Sir, that certain persons have recently been appointed in the C. P. and the Punjab as Executive Councillors although it was known that they were going to stand in the coming elections ?

The Honourable Sir Frank Noyce : I have no information on that subject.

Mr. Sri Prakasa : In view of the fact that the Honourable the Law Member said yesterday that these Executive Councillors in the course of their tours might be mixing up election propaganda with some official work also, while their full travelling expenses are paid by Government, will Government please ask them when they are so travelling for mixed purposes, to keep a diary, so that a proper proportion of their travelling expenditure may be debited to their own private purse ?

The Honourable Sir Frank Noyce : No, Sir.

Mr. Mohan Lal Saksena : Will Government issue instructions to these Executive Councillors not to use Government stationery and service postage stamps for correspondence in connection with their election ?

The Honourable Sir Frank Noyce : No, Sir, that is a matter which must be left to the good sense of the gentlemen concerned.

Mr. M. Ananthasayanam Ayyangar : Is not allowing these Executive Councillors to go on their official duties and at the same time permitting them to carry on their electioneering propaganda against the Viceroy's speech recently made here ?

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of opinion.

DRAFT OF THE INSTRUMENT OF ACCESSION.

864. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether it is a fact that steps are being taken shortly to place on the table of the House of Commons a revised draft of Instrument of Accession during the Parliamentary recess;
- (b) whether the legal advisers of the Indian Princes in London were consulted about the draft of the Instrument ; and
- (c) whether they are taking steps to bring Federation into being by April, 1938 ?

The Honourable Sir Frank Noyce : (a) Government have no precise information on the subject.

(b) Yes.

(c) Government are anxious to bring Federation into being as soon as practicable, but they are unable to specify any precise date.

Mr. M. Ananthasayanam Ayyangar : What is the earliest possible time, if not the exact date ?

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

PROTECTION TO THE COCOANUT INDUSTRY.

865. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled, " The Coconut Problem " in the *Madras Mail* of the 7th August, 1936 ;
- (b) whether, apart from taking measures by way of protection, they propose to consider the other suggestions contained in the article ; and
- (c) when they hope to take action in this matter ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The Government of India have considered the suggestion that concerns them. In view of the enquiry into the supply of coconuts and coconut products in India which was conducted in 1934, under the auspices of the Imperial Council of Agricultural Research, they do not think that any further investigation by them is needed.

Prof. N. G. Ranga : Are there any researches being made for the better utilisation of the bye-products of coconuts ?

Sir Girja Shankar Bajpai : Not so far as I am aware.

Dr. Ziauddin Ahmad : What are the other suggestions mentioned ?

Sir Girja Shankar Bajpai : One is that the Travancore Durbar should abolish the export duty ; that concerns the Durbar ; and the other suggestion was that the Government of India, the Government of Madras, the Government of Travancore and the Government of Cochin should combine to conduct a research into the cost of production of coconuts in Ceylon.

Prof. N. G. Ranga : Will Government consider the advisability of getting certain researches made into the economical utilisation of the bye-products of cocoanuts either with the help of the Imperial Council of Agricultural Research or the Provincial Governments' Departments ?

Sir Girja Shankar Bajpai : It is open to the Government of Madras to put forward proposals to that effect, and they will undoubtedly be taken into consideration by the Advisory Board of the Imperial Council of Agricultural Research if that is done.

Mr. Sri Prakasa : Has the Government got any analysis made of a cocoanut, as regards its food value ; and in view of the fact that it is conducive to talkativeness, will Government discourage the spread of cocoanut cultivation ?

Sir Girja Shankar Bajpai : Fortunately the climate of Northern India is so dry that my Honourable friend need have no anxiety that cocoanut cultivation will spread here.

Dr. Ziauddin Ahmad : Why is the cost of production of cocoanut in Ceylon less than that in India ?

Sir Girja Shankar Bajpai : I would refer my friend to the Report of Dr. Patel which contains some data on that subject.

STRIKE OF STUDENTS IN THE ALIGARH MUSLIM UNIVERSITY.

866. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) the latest position in regard to the strike of students in the Aligarh University ;

(b) the causes of the strikes ; and

(c) whether they propose to give up the practice of appointing active politicians to responsible offices in Universities, while allowing them to continue as such, and if not, why not ?

Sir Girja Shankar Bajpai : (a) and (b). Government have no information beyond what has appeared in the press.

(c) Government are not aware of the practice referred to. In the Universities of Benares and Aligarh, with which the Central Government are concerned, responsible offices are filled in accordance with the provisions of the Act constituting the University and not by the Government of India.

Mr. M. Ananthasayanam Ayyangar : May I know why the Government do not care to investigate as to whether the report that appeared in the press is true with a view to taking action ?

Sir Girja Shankar Bajpai : No, Sir. It is not necessary to investigate every press report.

Dr. Ziauddin Ahmad : Is it not a fact that cent. per cent. information published in the *Hindustan Times* about the strike was absolutely incorrect ?

Sir Girja Shankar Bajpai : My Honourable friend, who is the Vice-Chancellor of the University, knows it better than I do.

Dr. Ziauddin Ahmad : You can take it from me that all that information was incorrect. Is it not a fact that all the discipline and the arrangement of examinations and teaching are in the hands of the Pro-Vice-Chancellor and the Vice-Chancellor has nothing to do with the academic side of the University and the same as in Benares ?

Sir Girja Shankar Bajpai : Well, Sir, that is imparting information in the form of a question.

Sardar Sant Singh : On a point of order, Sir. May I request you kindly to ask Dr. Ziauddin Ahmad to answer that question ?

Mr. President (The Honourable Sir Abdur Rahim) : Next question.

IMPARTIALITY OF OFFICERS IN THE PROVINCES *re* LEGITIMATE ACTIVITIES OF CONSTITUTIONAL PARTIES.

867. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

(a) whether their attention has been drawn to a letter from the Private Secretary to His Excellency the Governor of Bengal to Mr. Fuzlul Huq published in the *Amrita Bazar Patrika* of the 11th August, 1936 ;

(b) whether they propose to convey the following statement of the position to all Provincial Governors, including the Governor of the United Provinces, " His Excellency feels that he must take this opportunity of making it clear that he is constitutionally debarred from associating himself in any way with any political party whatsoever. It is his duty as he conceives it to keep an entirely open mind in regard to political complexion and composition of the Government of the future so long as the electorates have still to pronounce their judgment on the merits of the candidates who may seek their suffrages " ;

(c) whether they are aware that in all Provinces, as in Bengal, responsible officers of the Government in the district have already been instructed to observe the strictest impartiality in relation to legitimate activities of the different constitutional parties ; and

(d) whether this has been done particularly in the United Provinces and in the North-West Frontier Province, and if not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) No.

(c) and (d). Government believe it to be the case.

Mr. M. Ananthasayanam Ayyangar : May I know what is the answer to clause (d) ?

The Honourable Sir Frank Noyce : The answer to parts (c) and (d) is that Government believe this to be the case.

Mr. Mohan Lal Saksena : Is the Government aware that the Court of Wards is a reserved subject in the United Provinces ?

The Honourable Sir Frank Noyce : The House is in the middle of the discussion on the subject covered by this question and I venture to think it is hardly necessary to go further into the matter in reply to a supplementary question.

Mr. M. Ananthasayanam Ayyangar : May I know if the Honourable Member means to say with reference to the answer to clause (d) that instructions have been issued by the Governments of the United Provinces and the North-West Frontier Province? Have any instructions been issued by the Government of India?

The Honourable Sir Frank Noyce : Not from the Government of India.

NEGOTIATIONS FOR A TRADE AGREEMENT IN PLACE OF THE OTTAWA TRADE AGREEMENT.

868. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether it is a fact that they are preparing preliminary proposals to be submitted to His Majesty's Government, who have expressed their willingness to conclude a trade agreement for replacing the Ottawa Pact ;
- (b) whether Indian commercial opinion was consulted in preparing these preliminary proposals ;
- (c) if so, who are the persons or bodies who are so consulted ;
- (d) whether to the knowledge of the Government of India, the British Government are also preparing similar preliminary proposals to submit to the Government of India ;
- (e) whether after the exchange of these notes, it is intended to formulate outstanding issues ;
- (f) what the next step will be, — whether personal contact will be established between the representatives of the British Government and of the Government of India and, if so, whether in India or in London ;
- (g) whether they are aware of the strong Indian feeling, in the matter of these negotiations, that in their formative and conclusive stages they should take place in India ;
- (h) whether the Commerce Member proposes to lead any Indian delegation to England in connection with this matter ; and
- (i) whether it is intended to include any non-official Indians in any such delegation, and if so, how they will be selected ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b), (d), (e) and (f). The Honourable Member's attention is invited to the replies given by me to his questions Nos. 761 and 764 in the current Session.

(c) A list of the commercial bodies consulted in the matter is placed on the table.

(g) Government have received certain representations to this effect.

(h) and (i). The question of the appointment of an Indian Delegation has not yet been taken up.

List of Chambers of Commerce and Trade Associations to whom a copy of the Government of India, Department of Commerce, Circular letter No. 20-T (6) 36, dated the 22nd July, 1936, was sent.

A.—CHAMBER OF COMMERCE.

Madras.

Madras Chamber of Commerce, Madras.
Southern India Chamber of Commerce, Madras.
Andhra Chamber of Commerce, Madras.
Indian Chamber of Commerce, Coimbatore.
Coimbatore Chamber of Commerce, Coimbatore.
Cocanada Chamber of Commerce, Cocanada.
Godawari Chamber of Commerce, Cocanada.
Tanjore District Chamber of Commerce, Tanjore.
Indian Chamber of Commerce, Tuticorin.
Tuticorin Chamber of Commerce, Tuticorin.
Malabar Chamber of Commerce, Calicut.
Calicut Chamber of Commerce, Calicut.
Chamber of Commerce, Tellicherry.
Cochin Chamber of Commerce, Cochin.
Chamber of Commerce, Negapatam.

Bombay.

Bombay Chamber of Commerce, Bombay.
Indian Merchants' Chamber, Bombay.
Maharashtra Chamber of Commerce, Bombay.
Marwadi Chamber of Commerce, Bombay.

Sind.

Karachi Chamber of Commerce, Karachi.
Buyers and Shippers Chamber, Karachi.

Bengal.

Bengal Chamber of Commerce, Calcutta.
Bengal National Chamber of Commerce, Calcutta.
Indian Chamber of Commerce, Calcutta.
Marwari Chamber of Commerce, Calcutta.
Japanese Chamber of Commerce, Calcutta.
Muslim Chamber of Commerce, Calcutta.
Associated Chambers of Commerce of India, Calcutta.
Chittagong Chamber of Commerce, Chittagong.
Narayanaganj Chamber of Commerce, Narayanaganj.

United Provinces.

Upper India Chamber of Commerce, Cawnpore.
Merchants Chamber of United Provinces, Cawnpore.
United Provinces Chamber of Commerce, Cawnpore.

Punjab.

Indian Chamber of Commerce, Lahore.
Northern India Chamber of Commerce, Lahore.

Burma.

Burma Chamber of Commerce, Rangoon.
Burma Indian Chamber of Commerce, Rangoon.
Burmese Chamber of Commerce, Rangoon.
Chinese Chamber of Commerce, Rangoon.

Bihar.

Bihar and Orissa Chamber of Commerce, Patna.
Bihar and Orissa Muslim Chamber of Commerce, Patna.

Orissa.

Orissa Chamber of Commerce, Cuttack.

Central Provinces.

Nagpur Chamber of Commerce, Nagpur.
Berar Chamber of Commerce, Akola.

Coorg.

Mysore Chamber of Commerce, Bangalore.

Delhi.

Punjab Chamber of Commerce, Delhi.

General.

Federation of Indian Chambers of Commerce and Industry.

B.—TRADES ASSOCIATIONS.*Madras.*

Madras Trades Association, Madras.
Madras Piecegoods Merchants Association, Madras.
Southern India Skin and Hide Merchants Association, Madras.
Employers Federation of South India, Madras.
Southern India Millowners Association, Coimbatore.
United Planters' Association of Southern India, Coonoor.

Bombay.

Bombay Presidency Trades Association, Ltd., Bombay.
Bombay Millowners Association, Bombay.
Seeds Traders Association, Bombay.
East India Cotton Association, Limited, Bombay.
Bombay Native Piecegoods Merchants' Association, Bombay.
Grain Merchants' Association, Bombay.
Native Share and Stock Brokers' Association, Bombay.
Indian Society of Accountants and Auditors, Bombay (for supply of Notifications, etc., regarding Auditors Certificates Rules only).
Sugar Merchants' Association, Bombay.
Indian Central Cotton Committee, Bombay.
Bombay Shareholders Association, Bombay.
Ahmedabad Millowners' Association, Ahmedabad.

Sind.

Karachi Indian Merchants' Association, Karachi.

Karachi Sat Narayan Indian Piecegoods Merchants' Association, Karachi.

Bengal.

Calcutta Trades Association, Calcutta.

Indian Jute Mills Association, Calcutta.

Indian Tea Association, Calcutta.

Indian Mining and Geological Institute of India, Calcutta.

Indian Mining Association, Calcutta.

Indian Engineering Association, Calcutta.

All-India Landholders Association, Calcutta.

Indian Sugar Mills Association, Calcutta.

Marwari Association, Calcutta.

Bengal Mahajan Sabha, Calcutta.

Indian Mining Federation, Calcutta.

Wine, Spirit and Beer Association of India, Calcutta.

Jute Balers' Association, Calcutta.

Calcutta Wheat and Seed Trades Association, Calcutta.

Calcutta Hides and Skins Shippers Association, Calcutta.

Calcutta Jute Fabric Shippers' Association, Calcutta.

Indian Indigo Association, Calcutta.

Indian Tea Cess Committee, Calcutta.

Calcutta Import Trade Association, Calcutta.

United Provinces.

Indian Sugar Producers' Association, Cawnpore.

United Provinces Oil Millers' Association, Cawnpore.

Punjab.

Punjab Trades Association, Lahore.

Punjab Merchants' Association, Lahore.

Simla Trades Association, Simla.

Burma.

Rangoon Trades Association, Rangoon.

Bihar.

Indian Coal Merchants' Association, Jharia.

Bihar Planters' Association, Bihar.

Central Provinces.

Central Provinces and Berar Mining Association, Nagpur.

Merchants' Association, Jubbulpore.

Central Provinces and Berar Factory Owners' Association, Khamgaon

Delhi.

Delhi Piecegoods' Association, Delhi.

Hindustani Mercantile Association, Delhi.

PRODUCTION OF QUININE.

869. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyanurti) : Will Government be pleased to state :

- (a) whether they have investigated the question whether India will be able to produce all the quinine she requires for home consumption at competitive cheap prices ;
- (b) whether they have investigated the question if it is possible for the Government to undertake the free distribution of quinine on a large scale to the villagers, who cannot afford to buy it at the present price or at any price ;
- (c) whether it is a fact that the development of cinchona has been made subservient to financial and political consideration ;
- (d) whether they have any proposals for greater control and greater co-ordination of cinchona cultivation and production and distribution of quinine ;
- (e) whether it is a fact that even the system of distribution of quinine, though in part controlled by the Government of India, is cumbersome and difficult and requires a thorough overhaul ;
- (f) whether they have come to the conclusion that India cannot produce as cheap and good quinine as Java ;
- (g) whether it is a fact that the Government of India's quinine came to be sold outside India at lower prices than it can be sold by the quinine trade in India ;
- (h) whether it is a fact that 22,000 lbs. of this cheap quinine was imported into England during the last few months and a large quantity will be imported in the next few years ; and
- (i) whether they propose to examine the whole question and lay down a policy in the interests of the public health of India ?

Sir Girja Shankar Bajpai : (a), (f) and (i). The question of production costs is under examination at present in consultation with the Governments of Madras and Bengal. The answer to parts (a) and (i) will depend upon the result of this action. The Honourable Member will appreciate that a concerted policy for India can be prescribed and given effect to only with the co-operation of Local Governments.

(b) The distribution of quinine in the provinces is a matter for Local Governments.

(c) No.

(d) and (e). The Honourable Member will realise that, on the introduction of provincial autonomy, the Government of India will cease to have any power to control the production or distribution of quinine. Any measure of co-ordination that Local Governments desire and which may be within the power of the Government of India to promote will receive sympathetic consideration.

(g) I would refer the Honourable Member to the answer given to part (b) of his question No. 777 during the current Session.

(h) Only 3,333 lbs. of crude quinine have been sold in England since 1st April, 1936. The reasons for such sale have been explained in answer to Honourable Member's question No. 777 during the current Session.

Mr. M. Ananthasayanam Ayyangar : May I ask why quinine was sold to foreign countries even before it was investigated whether it was possible to manufacture quinine here at a comparatively cheaper rate ?

Sir Girja Shankar Bajpai : I have explained that already. These sales are the result of negotiations initiated in 1933 in order to reduce the surplus stock of quinine.

Mr. M. Ananthasayanam Ayyangar : May I ask, Sir, whether the surplus stock of quinine would get bad or deteriorated in quality if it is kept for long ?

Sir Girja Shankar Bajpai : The opinion of the experts is that keeping it in tins or boxes does not in any way affect its quality.

CABINET SECRETARY AND HIS DUTIES.

870. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled 'Sir Eric Mievill' in the *Indian Express* of Thursday, the 6th August, 1936 ;
- (b) whether they will place on the table of the House a statement containing the whole history of the matter of the Secretary to the Executive Council of the Viceroy ; and
- (c) what are his duties ?

The Honourable Sir Henry Craik : (a) I have read the article at the Honourable Member's invitation : and I regret that he should have called attention to criticism so offensively expressed.

(b) and (c). I would refer the Honourable Member to the reply which I gave to Mr. C. N. Muthuranga Mudaliar's starred question No. 512 on the 18th September, 1936. and to the answers referred to therein. I have nothing more to add to the replies already given and do not propose to lay any statement on the table.

INDIANS IN ZANZIBAR.

871. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the statement of Mr. Anandani on 'Indians in Zanzibar' published in the *Bombay Sentinel* of the 13th August ;
- (b) whether they are aware of any attempt on the part of the White Settlers in Kenya to take away all the rights of Indians and of the natives ;
- (c) whether they will make public the correspondence between them and the Colonial Office on this matter ;

- (d) whether it is a fact that the Indian representatives were denied the right of seeing the Secretary of State for Colonies and putting their case forward ;
- (e) whether they propose to take steps to ask the Colonial Office not to receive any further representations on behalf of Zanzibar ;
- (f) what is the latest action they have taken regarding the Land Alienation Decree and the repeal of the Clove Industry Laws ; and
- (g) whether they have met Mr. Anandani, and what is the action they propose to take in the matter ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The Honourable Member's attention is invited to the reply given on the 4th September, 1936, to parts (b) and (c) of his starred question No. 118.

(d) Government have received no information to that effect.

(e) My Honourable friend would agree that that would be an unreasonable request to make.

(f) The Honourable Member's attention is invited to the reply given on the 31st August, 1936, to Mr. T. S. Avinashilingam Chettiar's starred question No. 23.

(g) No request for an interview has been received from Mr. Anantani.

Pandit Lakshmi Kanta Maitra : With regard to part (d), may I know from the Honourable Member if he has inquired whether any representation was made by the Indians to the Secretary of State for Colonies and whether they were not given the right to represent ?

Sir Girja Shankar Bajpai : Well, Sir, the Government of India have no information that any Indians either from Zanzibar or Kenya wanted to wait on deputation on the Secretary of State for Colonies and that the request was refused. There is only the statement of Mr. Anantani that he sought to approach the Colonial Office but his request was not acceded to.

Pandit Lakshmi Kanta Maitra : Did the Government make inquiry whether any representation was actually made ?

Sir Girja Shankar Bajpai : It is not necessary to make any inquiries because the communities in Zanzibar and Kenya always represent to the Government of India any time they have a setback on any question of importance affecting them.

Mr. M. Ananthasayanam Ayyangar : May I ask why Mr. Anantani was not allowed to have an interview ?

Sir Girja Shankar Bajpai : That I cannot say. That is for Mr. Anantani to answer.

Mr. M. Ananthasayanam Ayyangar : May I ask if the special officer who was deputed to Zanzibar recently, Mr. Bozman, has submitted a report ?

Sir Girja Shankar Bajpai : That question I answered quite early in the Session. I said that he did not submit a report but a memorandum.

Dr. Ziauddin Ahmad : Are the Indians residing in Zanzibar the Indian subjects or the subjects of the Zanzibar Government ?

Sir Girja Shankar Bajpai : They are Indian nationals but naturally they are the subjects of the Government under which they may happen to reside at the moment.

Dr. Ziauddin Ahmad : In that case, they should make their representations to the British Government through the Indian Government ?

Sir Girja Shankar Bajpai : No, they can make representation to His Majesty's Government direct.

Dr. Ziauddin Ahmad : Why, then, the Colonial Secretary refused to receive a deputation of Indians ?

Sir Girja Shankar Bajpai : I do not admit that the Secretary of State for Colonies refused to receive a deputation from the Indian community in Zanzibar.

Mr. M. Ananthasayanam Ayyangar : May I ask if the Honourable Member will place a copy of the Memorandum submitted by Mr. Bozman in the Library of the House ?

Sir Girja Shankar Bajpai : No, Sir. It is a confidential document and I cannot place it in the Library of the House.

GOVERNMENT'S POLICY IN RESPECT OF TREASURY BILLS.

872. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled " Government's Treasury Bills Policy " in the *Hindu* of the 10th August, 1936 ;
- (b) whether they have considered the question whether " it is time that they cried halt and refused further to force down interest rates " and what their conclusion on the matter is ;
- (c) whether they have considered that " it is the duty of the monetary authority to direct the flow of the country's capital resources into productive enterprises and not allow, by the failure to provide proper channels of investment, unhealthy speculative trading in the stock exchange to be encouraged ", and that " it is up to the Government of India to see that a sound monetary policy is enforced " ; and
- (d) whether they propose to take any steps in this matter, and if not, why not ?

The Honourable Sir James Grigg : I have nothing to add to the replies given by me to the Honourable Member's starred questions Nos. 155, 159 and 261 on the same subject during the current Session.

APPOINTMENT OF A COMMISSION ON IMMIGRATION IN CEYLON.

873. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article on ' The appointment of a Commission on Immigration by the Board of Ministers in Ceylon ' published in the *Hindu* of the 10th August, 1936 ;
- (b) whether they have ascertained what the real object of this commission is ;
- (c) whether they propose to explore the possibilities of a permanent settlement of Indian labour going down to Ceylon, on lines similar to those which are now being discussed in Malaya ; and
- (d) whether they propose to keep the Assembly informed from time to time of the progress of negotiations in this matter ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) to (d). The terms of reference of the Commission are not yet known but judging from the previous discussions in Ceylon the main subject of investigation would appear to be the problem of immigration. As I have already informed the House the Government of India propose to keep in close touch with developments with a view to safeguarding Indian interests. They have little doubt that, when the Assembly is in Session, the keen interest of Honourable Members in this question will provide adequate opportunities for keeping the House informed of the progress of events.

ARTICLE ENTITLED " TRUSTEESHIP AND DISCRIMINATION " PUBLISHED IN THE *Hindu*.

874. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled ' Trusteeship and Discrimination ' in the *Hindu* of the 18th August, 1936 ;
- (b) whether they propose to bring to the notice of the Colonial Office that " it is preposterous that natives and Indians should be excluded from an area into which Greeks, Portuguese, Spaniards and Italians could freely enter " ; and
- (c) what the latest position in the matter is ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the replies given on the 1st September last to his starred question No. 42, and to the supplementaries arising out of it.

Mr. M. Ananthasayanam Ayyangar : May I know what is the answer to clause (c) ?

Sir Girja Shankar Bajpai : I have said in my reply that that was stated on the 1st of September.

DEVELOPMENT OF AN ALL-INDIA POLICY FOR INDIAN PORTS.

875. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether they are considering the question of developing an All-India policy for Indian Ports ;
- (b) if so, what that policy is ; and
- (c) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). I am not clear what the Honourable Member means but I would point out that the Government of India are concerned with major Ports only. Government have under consideration the question of bringing all these ports under the direct administration of the Government of India.

Mr. Lalchand Navalrai : May I know when that will happen ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say.

Dr. Ziauddin Ahmad : What about the Ports now belonging to the Indian States ?

The Honourable Sir Muhammad Zafrullah Khan : I answered only with regard to the major British Indian ports.

Prof. N. G. Ranga : Is there an all-India policy for the appointment of Indian Port Trust officers ?

The Honourable Sir Muhammad Zafrullah Khan : That has nothing to do with the present question.

Pandit Lakshmi Kanta Maitra : Is Chittagong included in this question ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

Mr. Mohan Lal Saksena : Are the Government aware of the great volume of public opinion that there should be a greater element of elected members in these Port Trusts ?

The Honourable Sir Muhammad Zafrullah Khan : This has nothing to do with the present question. I am not aware of any public opinion with regard to the elected character of the members.

QUOTA PRINCIPLE OF REGULATING TRADE BETWEEN INDIA AND JAPAN.

876. *Mr. N. M. Jeshi (on behalf of Mr. Mathuradas Vissanji) :
(a) Will Government be pleased to state how the quota principle of regulating trade between India and Japan has worked in practice ?

(b) Have any complaints been received regarding the faithful discharge of the obligations undertaken by the Japanese Government under the treaty with that country, and, if so, what remedies have been considered and adopted to help the parties aggrieved ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The attention of the Honourable Member is invited to the statements published in the *Indian Trade Journals*, dated the 14th November, 1935, 4th and the 18th June, 1936, copies of which are in the Library.

(b) I would refer the Honourable Member to paragraph 3 of the Statement of Objects and Reasons of the Indian Tariff (Second Amendment) Bill, 1936, and also the clause 2 of that Bill by which the entry for fents in the Import Tariff Schedule was amended. The Bill was passed by the Legislature and is now in force as Act No. XII of 1936. Certain further representations from commercial bodies and other sources which have since been received are engaging the attention of Government in connection with the Indo-Japanese trade negotiations now in progress.

Prof. N. G. Ranga : Has Japan taken any more cotton than what she agreed to take ? I mean more than the quota agreed ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member means whether Japan has taken cotton in excess of the minimum quantity she agreed to take, yes.

Mr. M. Ananthasayanam Ayyangar : Is there any authority to check or verify from the date of the protocol whether from year to year the quota of exports from Japan into India has exceeded or not ?

The Honourable Sir Muhammad Zafrullah Khan : Oh, Yes, Sir.

Mr. M. Ananthasayanam Ayyangar : What is that authority ?

The Honourable Sir Muhammad Zafrullah Khan : The quota is checked from the return of the Customs Department.

Pandit Lakshmi Kanta Maitra : Once a year ?

The Honourable Sir Muhammad Zafrullah Khan : Continuously.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable Member aware that neither the Customs Department nor the Journal of Seaborne Trade discloses the several heads of imports from Japan which are necessary for the purpose of checking.

The Honourable Sir Muhammad Zafrullah Khan : Government are supplied with the necessary figures, but it is not necessary to set them out in the *Trade Journal*.

Dr. Ziauddin Ahmad : What is the experience of the Government during the last five years, whether it is necessary to have the quota system and at the same time a high tariff wall ?

The Honourable Sir Muhammad Zafrullah Khan : That is a question of policy on which I am unable to express any opinion.

Dr. Ziauddin Ahmad : What is the information of Government ?

The Honourable Sir Muhammad Zafrullah Khan : From what quarters ?

Dr. Ziauddin Ahmad : The Government have got certain figures in their possession and do they conclude from those figures whether it is necessary simultaneously to have the quota system and a high tariff wall ?

The Honourable Sir Muhammad Zafrullah Khan : The moment the Honourable Member begins to ask me whether it is necessary to have a certain system it becomes a matter of opinion.

ABOLITION OF THE TARIFF BOARD.

877. *Mr. N. M. Joshi (on behalf of Mr. Mathuradas Vissanji) :
(a) In view of the abolition of the Tariff Board, will Government be pleased to state whether they are satisfied that there is no industry in India which justified any investigation with a view to protection of any such industry ?

(b) Do Government propose to consult this House before once again setting up the Tariff Board in the future ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The Honourable Member is referred to my speech on Mr. Satyamurti's adjournment motion in this connection on the 1st September, 1936.

(b) No ; does not arise.

Mr. Lalchand Navalrai : Is any special Tariff Board going to be set up this year ?

The Honourable Sir Muhammad Zafrullah Khan : That is a hypothetical question.

Mr. President (The Honourable Sir Abdur Rahim) : This matter has been fully discussed.

INVESTIGATION OF THE INDIAN INCOME-TAX SYSTEM BY EXPERTS.

878. *Mr. N. M. Joshi (on behalf of Mr. Mathuradas Vissanji) : Will Government be pleased to state at what stage has the investigation by experts of the Indian income-tax system reached and whether this House will be afforded an opportunity to pronounce generally upon their report when it is submitted to the Government and before any legislation is based thereon ?

The Honourable Sir James Grigg : The Report is in preparation. The question of its publication and of its discussion in this House will be considered after it is received.

Pandit Lakshmi Kanta Maitra : When do the Government expect to have the report ?

The Honourable Sir James Grigg : I have answered that several times ; sometime in the next month or so.

Mr. Ram Narayan Singh : May I know, Sir, whether the Government are prepared to consider the suggestion that in the Income-tax Department the executive side of the department should be separated from the judicial side.

The Honourable Sir James Grigg : I have answered that question before ; that is being considered.

PERIODICAL HEALTH AND EYE-SIGHT EXAMINATIONS OF THE RAILWAY STAFF.

879. *Mr. Mohan Lal Saksena : (a) Will Government be pleased to state categorically the railway staff who are under the present rules required to pass periodical health and eye-sight examinations ?

(b) Is it a fact that the Railway Officers, though required to perform the duties demanding health and eye-sight to be in perfect condition, are exempted from the operation of those rules ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would refer the Honourable Member to the Regulations for the medical examination of candidates and employees, non-gazetted, (including inferior) and labourers' grades, Indian State Railways, which contain the information asked for. A copy of these Regulations will be found in the Library of the House.

(b) I would refer the Honourable Member to the reply given to part (d) of unstarred question No. 393 asked by Mr. Sham Lal on the 20th March, 1936.

EMPLOYEES DISCHARGED FROM THE EAST INDIAN RAILWAY ON ACCOUNT OF DEFECTIVE EYE SIGHT.

880. **Mr. Mohan Lal Saksena :** Will Government be pleased to state the number of employees discharged from the East Indian Railway service on account of defective eye-sight during 1934-35 and 1935-36 ?

The Honourable Sir Muhammad Zafrullah Khan : The information asked for is not readily available and Government do not consider the labour and expense involved in collecting it will be justified by the results likely to be obtained.

Dr. Ziauddin Ahmad : Before any person is retrenched on account of defective eye-sight, do Government send the person concerned to any Medical Board or do they take only the opinion of a single medical officer ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say without notice.

Mr. Mohan Lal Saksena : Am I to understand that the number of persons who have been discharged on account of defective sight is so large that it will involve considerable time and labour to collect the figures ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot add anything to the reply I have already given.

Mr. Mohan Lal Saksena : How did the Honourable Member make up his mind that the collection of the information would involve time and labour ?

The Honourable Sir Muhammad Zafrullah Khan : Information would have to be collected from numerous places and quarters.

Pandit Lakshmi Kanta Maitra : Have the Railway Administration got Medical Boards for the periodical examination of the health and eye-sight of its staff ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is fully aware of the medical departments of the different railways and their constitution.

Mr. Lalchand Navalrai : Is there any list kept in the respective Agent's offices with regard to the persons who have been discharged on account of defective eye-sight ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say without notice.

Pandit Lakshmi Kanta Maitra : Am I to understand that the Medical Department of different railways undertakes the task of periodical examination of health and eye-sight of the railway employees ?

The Honourable Sir Muhammad Zafrullah Khan : I do not know what the Honourable Member means by periodical examination, but such examination as is to be conducted is conducted by the medical officers of the different railways.

PERIODICAL EYE-SIGHT TESTS OF THE EMPLOYEES IN THE MECHANICAL WORKSHOP OF THE OLD OUDH AND ROHILKHAND RAILWAY.

881. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state if the old Oudh and Rohilkhand Railway employees in the mechanical workshop were required to pass any periodical eye-sight tests ? If so, will Government be pleased to state the rules ?

(b) Will Government be pleased to state if His Excellency the Governor General gave any assurance to the Oudh and Rohilkhand Railway employees at the time of its amalgamation with the East Indian Railway that they will continue to enjoy their original service conditions ?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state why the East Indian Railway Administration has discharged and financially put to loss a large number of old Oudh and Rohilkhand Railway employees during the last two years on the ground of defective eye-sight ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). No.

(c) Does not arise.

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR REGARDING PERIODICAL EYE-SIGHT TEST OF WORKERS.

882. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state whether the recommendations made by the Royal Commission on Labour regarding periodical eye-sight test of workers have been accepted by the Government ? If not, why not ?

(b) If the reply to part (a) be in the affirmative, why has not the independent Specialist (Medical) for the United Provinces yet been selected and announced, and why were no steps taken to provide these men with other work ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Presumably the Honourable Member is referring to recommendation No. 121(a) on page 502 of the report of the Royal Commission on Labour. If so, the reply is in the negative. Government consider that railway medical officers are adequate for the purpose and so long as Railway Administrations are responsible for the safety of the travelling public they must be guided by the opinion of the Principal or Chief Medical Officers of Railways to whom employees, who have been examined by railway medical officers, have a right of appeal.

(b) Does not arise.

Dr. Ziauddin Ahmad : Does the Principal or Chief Medical Officer examine the person himself or does he appoint any Board to examine the persons ? What happens ? What is the meaning of this appeal to the Chief Medical Officer ?

The Honourable Sir Muhammad Zafrullah Khan : They can appeal to him when they consider that the result arrived at by the medical officer is not correct. They can put forward before him such materials as they think would convince him that the medical officer's report is not correct. It is open to him to take such action in the matter as the circumstances of the particular case might justify in order to satisfy himself whether the opinion of the medical officer is correct or not.

Dr. Ziauddin Ahmad : What is the material that a person can put before the Principal Medical Officer ? He was examined by one medical officer who says that the person is unfit. There is no material and the only way in which it can be decided is by the appointment of a Medical Board by the Chief Medical Officer ?

The Honourable Sir Muhammad Zafrullah Khan : That is an argument.

Mr. Mohan Lal Saksena : Why have not the Government appointed an independent Medical Specialist as was recommended by the Labour Commission ?

The Honourable Sir Muhammad Zafrullah Khan : That is exactly the question to which I have given a reply.

EYE-SIGHT TEST OF WORKERS.

883. ***Mr. Mohan Lal Saksena :** Are Government aware of the impression that the eye-sight test of workers is being resorted to by the administration as a hand device for retrenchment of employees to evade public criticism and other formalities ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR REGARDING RAILWAYS.

884. ***Mr. Mohan Lal Saksena :** Will Government be pleased to state which of the recommendations made by the Royal Commission on Labour regarding railways have been accepted by the Railway Administration, and which of them have been given effect to ?

The Honourable Sir Muhammad Zafrullah Khan : The attention of the Honourable Member is invited to the reply given on the 25th September, 1936, to his question No. 628.

RAILWAY STAFF ENTITLED TO RENT-FREE QUARTERS.

885. ***Mr. Mohan Lal Saksena :** Will Government be pleased to state categorically the railway staff who are entitled to rent-free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is referred to rule 2 of Chapter II of the State Railway Code (Revised), a copy of which is in the Library of the House.

RENT-FREE QUARTERS FOR INDIAN RAILWAY STAFF.

886. *Mr. Mohan Lal Saksena : Will Government be pleased to state whether quarters for Indian staff, who are entitled to rent-free quarters, have been provided at every station where such staff are posted ?

The Honourable Sir Muhammad Zafrullah Khan : No employee whether Indian or European has a right to be provided with quarters but residential quarters are provided by railways where they consider it desirable.

Mr. Mohan Lal Saksena : Is it not a fact that under the new rules certain railway employees are given rent-free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : Not as a matter of right unless the conditions of service prescribe in particular cases that they will be entitled to rent-free quarters in which case they are either given quarters, if available, or an allowance in lieu thereof.

Pandit Lakshmi Kanta Maira : Even in State Railways, are there not many stations where the Indian staff belonging to the running section are not provided with quarters ?

The Honourable Sir Muhammad Zafrullah Khan : Quite possible.

RACIAL DISCRIMINATION IN THE ALLOTMENT OF QUARTERS TO RAILWAY STAFF.

887. *Mr. Mohan Lal Saksena : (a) Is it a fact that racial discrimination is made in the matter of provision and allotment of quarters ?

(b) Are Government aware that at stations like Lucknow no quarters for Indian subordinates have so far been provided, though many of them are entitled to rent-free quarters, and that quarters for Anglo-Indian staff, even though they are not entitled to get railway quarters, are ample in number and are enjoyed by the Anglo-Indians at comparatively low rent ?

(c) Are Government aware that European type quarters are not suitable to orthodox Indian families and that to occupy the same causes great hardship and inconvenience to them and their families on account of different mode of life and the neighbouring conditions ?

(d) Will Government be pleased to state if house allowance in lieu of rent-free quarters is paid to the Indian staff where no quarters are available for them ?

(e) Is it a fact that for want of Indian type quarters at Lucknow, East Indian Railway, Indian subordinates were being paid house allowance, but recently one European type quarter was allotted to about a dozen of Indian subordinates, all of whom refused to occupy the same, unless it was altered to suit the requirements of an orthodox Indian family to reside ?

(f) Are Government aware that the Railway authorities refused to alter the type of the quarter and also stopped payment of house allowance, so long enjoyed by these Indian staff, on the ground of their refusal to occupy an unsuitable house ?

(g) Are Government aware that Anglo-Indians are not posted at any station where they cannot be provided with European type

quarter, and that they are never allotted any Indian type quarter, though those may remain vacant ?

(h) Will Government be pleased to state why similar consideration is not allowed in the case of Indian staff ?

(i) Are Government aware that the Indian subordinates have been posted at Lucknow long before they were offered to occupy the said European type quarter and that, at the time of their posting at Lucknow, they were refused any railway quarter and were paid house allowance in lieu ?

(j) Are Government aware that this action of the Railway authorities has imposed a serious hardship on the Indian subordinates ?

(k) Are Government prepared to institute an enquiry into these grievances of the Indian staff and remove the same ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) No.

(b) About 175 sets of clerical type quarters for Indian subordinate staff have been built at Lucknow. In addition private enterprise meets some of the demand. Anglo-Indian staff who occupy railway quarters pay rent in accordance with the rules in force.

(c) Government are informed that, ordinarily, Indian employees have no objection to occupy European (open) type quarters.

(d) House allowance is paid to staff to whom it is due under the rules.

(e), (f) and (i). Two Indian employees who refused to occupy the quarters allotted to them had their house allowance stopped, as under the rules they were no longer entitled to it. The quarters are lying vacant in consequence. Five Indian employees who sub-let their quarters to other staff have also had their house allowance stopped.

(g) The situation has not yet arisen.

(h) Does not arise.

(j) and (k). No.

Pandit Lakshmi Kanta Maitra : What are the rules which govern the payment of rent by Anglo-Indian officers for their quarters ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will put down a question to that effect, I shall furnish him with the information.

Mr. Mohan Lal Saksena : Will the Honourable Member cite any case in which an Anglo-Indian has been provided with quarters of the Indian type ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will put down a question to that effect I will try to find it out for him if possible.

Mr. Mohan Lal Saksena : As a matter of fact the whole question relates to this grievance.

The Honourable Sir Muhammad Zafrullah Khan: I cannot start arguing the question without notice.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has asked for a specific question and notice to that effect may be given.

Mr. Mohan Lal Saksena : I have asked in my question whether certain quarters which were built for Anglo-Indians and Europeans alone are being allotted to Indians and when they refused to occupy them on that ground their house allowance has been stopped. That is one part ; the other part asks whether any Anglo-Indian is posted at a place where European type quarters are not available. Both these questions are there and therefore I asked whether there is any case where Anglo-Indians have been allotted Indian type quarters.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member merely wants to argue the question by putting the reverse case, and if he does want to persist in the argument, I have suggested that he should put down a question to that effect.

Pandit Lakshmi Kanta Maitra : May I know if in important stations, like Lucknow and Asansol, there is any agency which allots quarters to the railway employees ?

The Honourable Sir Muhammad Zafrullah Khan : I believe so, but if the Honourable Member wants specific information I am afraid he will have to put down a question to that effect.

Mr. Sri Prakasa : Does the differing type refer to the fittings and furniture or to the structure of the building ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I could not say without notice.

EXEMPTION OF THE RUNNING STAFF FROM THE OPERATION OF HOURS OF EMPLOYMENT RULES ON STATE RAILWAYS.

888. ***Qazi Muhammad Ahmad Kazmi :** (a) Is it a fact that *Running staff* are exempted from the Operation of Hours of Employment Rules on State Railways in India ?

(b) On what particular considerations are certain categories of staff classed as *Running staff* for the purpose of :

(i) travelling allowance, and

(ii) Hours of Employment Rules ?

(c) Were the Crew staff employed on the East Indian Railway before 1st June, 1931, classed as *Running staff* ?

(d) Is it a fact that Crew staff comprised of Crewmen, Crew incharge, and Crew Inspectors ?

(e) If the answer to part (c) be in the affirmative, will Government be pleased to state under what rule they were denied mileage allowance which the *Running staff* are entitled to draw ?

(f) Will Government be pleased to state whether Crewmen, Crew incharges and Crew Inspectors were *incharge of a running train, connected with the charge of a running train, or, considered to be connected with the charge of a running train* ?

(g) Will Government be pleased to state why the Travelling Ticket Inspectors on the East Indian Railway were paid mileage allowance before 1st June, 1931 ?

The Honourable Sir Muhammad Zafrullah Khan : I would invite the Honourable Member's attention to my reply to his starred question No. 832 asked on the floor of this House on the 26th February, 1936.

Qazi Muhammad Ahmad Kazmi : Will the Honourable Member give the exact numbers of the questions and answers which contain a reply to this question ?

The Honourable Sir Muhammad Zafrullah Khan : That matter was argued at length the other day and I suggested to the Honourable Member that if he wants the specific numbers of those questions, he should put down a question to that effect and I will give him an answer.

Qazi Muhammad Ahmad Kazmi : I never knew that this question also would be answered in the same way. As a matter of fact the other day.....

Mr. President (The Honourable Sir Abdur Rahim) : That is an argument. The Honourable Member had better put down a question.

Qazi Muhammad Ahmad Kazmi : Sir, on that day the Honourable Member promised that he would give me an answer to specific questions which relate to this particular question, and so I expected that at least in answer to this question he will give me the numbers of the questions in which this question has been replied to.

The Honourable Sir Muhammad Zafrullah Khan : No, I said that the Honourable Member should put down a specific question as regards the numbers of the questions and answers in which this information has been supplied, and I shall give him the numbers.

Dr. Ziauddin Ahmad : As regards (c), have Government made any attempt to classify the kind of services which may come under running staff and the class of services which are not under running staff ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member had better put down a question to that effect.

Dr. Ziauddin Ahmad : I asked if Government have made any attempt.

The Honourable Sir Muhammad Zafrullah Khan : I cannot answer that without looking into the matter.

PERMANENT TRAVELLING ALLOWANCE FOR TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

859. ***Qazi Muhammad Ahmad Kazmi** : (a) Is it a fact that Travelling Ticket Examiners now employed on the East Indian Railway are paid a consolidated allowance, i.e., permanent travelling allowance under Supplementary Rule 22 ?

(b) Is it a fact that a Travelling Ticket Examiner who is sent to work away from his sphere of duty, is entitled to convert this consolidated allowance into mileage allowance for the portion of the journey performed by him as laid down under Supplementary Rule 68 ?

(c) If the reply to part (b) be in the affirmative, will Government be pleased to state if by drawing mileage allowance, he becomes a member of the *Running staff* ?

(d) If the reply to part (b) be in the negative, will Government be pleased to state if the Travelling Ticket Examiners on State Railways in India are not governed by the Fundamental and Supplementary Rules ?

The Honourable Sir Muhammad Zafrullah Khan : I would invite the Honourable Member's attention to my reply to his starred question No. 832 asked in this House on the 26th February, 1936.

CHARACTER CERTIFICATES FOR SERVICE IN DEPARTMENTS OF THE GOVERNMENT.

890. ***Mr. Sham Lal :** (a) Will Government please state if a Government or a public servant is due a character certificate for his services in any Department of the Government ?

(b) If the reply to part (a) be in the affirmative, can an issuing authority leave the character and conduct column blank, or make it suspicious in a service certificate ?

(c) What is the justification for such a discretion of the issuing authority, and what is the possible avenue of redress for a Government servant after he has exhausted all the appellate authorities in regard to such grievances ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No, but the North Western Railway issue service certificate to an employee, who has rendered more than one year's service, on the termination of his service.

(b) The character and conduct column may be left blank at the discretion of the issuing authority.

(c) The issuing authority is in the best position to describe the character and conduct. With regard to the latter part, Government are unable to advise.

Pandit Lakshmi Kanta Maitra : Is this issue of certificates on the North Western Railway done with the approval of the Railway Board ?

The Honourable Sir Muhammad Zafrullah Khan : I suppose if there is a system and it has not been abolished in spite of its coming to the Railway Board's notice, it must be with the approval of the Board.

Mr. Mohan Lal Saksena : Does a similar rule exist in regard to any other department of Government ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I must require notice of that question.

Mr. Mohan Lal Saksena : What about the departments under the Honourable Member himself ?

The Honourable Sir Muhammad Zafrullah Khan : I have said I am unable to answer that without notice.

Pandit Lakshmi Kanta Maitra : Does this practice prevail on any other railway besides the North Western Railway ?

The Honourable Sir Muhammad Zafrullah Khan : Which practice ? The issue of certificates or having a particular column for character and conduct ?

Pandit Lakshmi Kanta Maitra : Both.

The Honourable Sir Muhammad Zafrullah Khan : I have said that this practice prevails on the North Western Railway.

INDIANS IN SPAIN.

891. ***Mr. T. S. Avinashilingam Chettiar :** (a) Will Government state the number of Indians living in Spain, and the amount of Indian money invested there ?

(b) Has any damage been caused to Indian life or property during the recent riots in Spain ? If so, to what extent ?

(c) Will Government please state if any attempts have been made for reparations for the same ? If so, to what extent ?

Sir Aubrey Metcalfe : (a) The Government of India understand that there are about 200 Indians in Spain. They have no information regarding the amount of Indian money invested there.

(b) No Indian suffered in person or property from the bombardments of Coastal towns in Spanish Morocco. Nor, so far as the Government of India are aware, has any damage been caused in Spain proper. The Consul-General at Tangier, however, has been instructed by His Majesty's Government to furnish a report on the position regarding British Indian interests.

(c) At the request of the Government of India His Majesty's Government have instructed Consular Officers in Spain and Spanish Morocco to do everything possible to protect property and to take note of particulars which might form a basis for possible presentation of claims for compensation.

BOOKS, PERIODICALS AND FILMS PROHIBITED FROM ENTERING INDIA.

892. ***Mr. M. Ananthasayanam Ayyangar :** Will Government be pleased to state the number of books, periodicals and films which have been prohibited from entering India during the past seven years under the Sea Customs Act, Post Office Act and other Acts ?

The Honourable Sir Henry Craik : No cinematograph film was prohibited entry into British India during this period. Twenty-five notifications prohibiting the entry of books and other publications were issued under the provisions of section 19 of the Sea Customs Act during the same period. Power to prohibit entry is not conferred by the Post Office Act or other Acts.

Mr. Mohan Lal Saksena : Will Government publish a consolidated list of all such books that have been proscribed under all these Acts ?

The Honourable Sir Henry Craik : No, Sir ; there is no intention to publish a consolidated list.

Mr. Mohan Lal Saksena : Do Government revise these orders of proscription, and if so, how often ?

The Honourable Sir Henry Craik : Not that I am aware. I do not remember any case in which the order of proscription was revised.

Mr. Mohan Lal Saksena : Is it not a fact that Ramsay MacDonald's book " the Government of India " was a proscribed book and afterwards the order was withdrawn ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member wants information as to the number of books and not the names of the books.

Mr. Mohan Lal Saksena : Sir, the Honourable Member's answer was that he is not aware of these orders of proscription being ever revised. So I cited an instance and asked him if he is aware of the fact that Ramsay MacDonald's book " The Government of India " was proscribed and later on that order was withdrawn.

The Honourable Sir Henry Craik : The Honourable Member is imparting information and not asking for it.

Pandit Lakshmi Kanta Maitra : Do I understand the Honourable Member to say that if a particular book or set of books is once proscribed, it is proscribed once and for all, and there is no case for revision ?

The Honourable Sir Henry Craik : No, I have not said that. I said that I am not aware, within my own experience, of any case in which it was necessary to revise an order prohibiting the entry of a book.

Pandit Lakshmi Kanta Maitra : Then may I know if there is any rule which permits the agency which censors these books to revise it and to cancel the ban, if necessary ?

The Honourable Sir Henry Craik : The power to proscribe the entry of a book into India rests with the Government of India. I have no doubt that the Government of India have the statutory power to cancel any such order issued.

Prof. N. G. Ranga : Do the Government of India entertain any appeals sent up by any public bodies or persons in India requesting them to revise their decision in proscribing a particular book or set of books ?

The Honourable Sir Henry Craik : Yes, I have no doubt that they would entertain any application sent to them. I have no knowledge of any such application having been received.

SUPERSESSION OF INDIANS BY EUROPEANS ON THE NORTH WESTERN RAILWAY.

893. ***Sardar Sant Singh :** (a) Is it a fact that junior Europeans have been superseding the senior Indians in the North Western Railway services ? If so, does this import a change in the policy of the Indianisation of the services ?

(b) Was the Railway Board consulted in the matter of the change of this policy ? If so, did any correspondence pass between the Agent of the North Western Railway and the Railway Board ? If so, will Government lay the correspondence on the table of the House ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The Honourable Member is presumably referring to appointments to administrative posts. These are selection posts which are filled by selection of officers considered to be best fitted to fill them. Due weight is given to seniority but none to racial considerations. There has been no change in policy.

Sardar Sant Singh : May I ask if it is a fact that persons who have been holding these administrative posts are being passed over in order to make room for junior European officers ?

The Honourable Sir Muhammad Zafrullah Khan : No.

Sardar Sant Singh : Is it a fact that Mr. C. H. Shah, the Deputy Chief Commercial Manager, had been acting in this post for the last six months.....

Mr. President (The Honourable Sir Abdur Rahim) : That question was disallowed, I think.

Sardar Sant Singh : May I ask, Sir, that in view of the reply given by the Honourable Member, if it is not permissible to point out to him certain facts which cannot be reconciled with the answer he has given ?

Mr. President (The Honourable Sir Abdur Rahim) : I have disallowed that question because I cannot allow individual cases being ventilated in this House like this.

Pandit Lakshmi Kanta Maitra : May I know what is the number of senior Indians who have been superseded by junior Anglo-Indians in this respect in the North Western Railway ?

The Honourable Sir Muhammad Zafrullah Khan : I will require notice of that.

Dr. Ziauddin Ahmad : In view of the fact that an assurance was given on the floor of this House by the Railway Member that whenever a senior man was superseded on account of inefficiency, the case would always be examined by the Railway Board and the Railway Member, may I ask whether all these cases were examined by him or by the Board ?

The Honourable Sir Muhammad Zafrullah Khan : In every case when there is a proposal that an officer should be selected for a particular appointment and there are officers senior to him who ought to be considered for that post, the matter is always considered not only by the Railway Board but also by the Railway Member.

Sardar Sant Singh : May I know if there have been any cases in which the Honourable Member has overruled the recommendations put forward ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot give a reply to that question.

Dr. Ziauddin Ahmad : Was this practice observed in this particular case mentioned or was any remark entered in the service roll of the gentlemen concerned ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow the Honourable Member to cover such wide ground.

AGITATION IN CEYLON AGAINST INDIANS AND MALAYALES.

894. ***Mr. H. A. Sathar H. Essak Sait** : (a) Are Government aware that :

- (i) there is an agitation going on in Ceylon against Indians in general and Malayalees in particular ;
 - (ii) that a persistent agitation is being carried on through public meetings and through distribution of pamphlets to boycott the Malayalees ;
 - (iii) that a resolution was moved in the State Council of Ceylon in May last to repatriate non-Ceylonese and that resolution has been referred to the Ceylon Government for taking necessary action thereon ; and
 - (iv) that the Ceylon Government are going to appoint a commission to consider this question ?
- (b) Will Government please state :
- (i) what steps they are taking in this matter ;
 - (ii) whether the rights and privileges of the Indians in Ceylon are proposed to be properly safeguarded ; and
 - (iii) whether, in the event of the commission being appointed, necessary steps will be taken to see that Indian interests are properly represented on the commission ?

Sir Girja Shangar Bajpai : The attention of the Honourable Member is invited to the reply given by me to Mr. Satyamurti's question No. 776 in the current Session.

Mr. H. A. Sathar H. Essak Sait : With reference to part (b) (iii) of my question, will the Honourable gentleman be kind enough to tell me whether the Government are thinking of deputing a capable officer to present the Indian case before the commission ?

Sir Girja Shankar Bajpai : No ; because the Government of India think that their Agent in Ceylon is quite capable of dealing with the situation.

Mr. H. A. Sathar H. Essak Sait : Seeing that the Agent in Ceylon is very much pressed for time and he is far removed from the centre of Government there—his office being in Kandy—is it not better that a special officer is deputed for this purpose, as this inquiry is very important affecting five millions of our people there ?

Sir Girja Shankar Bajpai : I am not for a minute disputing the importance of the matter ; but my Honourable friend ought to realise that while ordinarily the Agent may reside in Kandy, when an important investigation of this kind is in progress, he will take himself to the place where his presence is most needed and is likely to prove most useful.

Pandit Lakshmi Kanta Maitra : Do I understand that the Honourable Member's Department has not made any recommendation or indicated the feelings of India in this respect to the Agent ?

Sir Girja Shankar Bajpai : My Honourable friend is making an unduly unwarranted assumption. The proceedings of this House are

read by the Agent and whenever the occasion arises for the Government of India to address a communication to the Agent, that communication is made.

Mr. H. A. Sathar H. Essak Sait : Has the Agent been asked to prepare a case for this commission and to present it ?

Sir Girja Shankar Bajpai : It may be of interest to my Honourable friend to know that the gentleman has volunteered his assistance to Indian associations in Ceylon to assist them in the preparation of their case.

NOMINATION OF A MALAYALEE TO THE STATE COUNCIL AND APPOINTMENT OF A MALAYALEE OFFICER TO LOOK AFTER THE INTERESTS OF MALAYALEES IN CEYLON.

895. ***Mr. H. A. Sathar H. Essak Sait :** In view of the great interest that the Malayalees have in Ceylon, do Government propose :

- (a) to represent to the Government of Ceylon the need for nominating a Malayalee to the State Council in Ceylon ; and
- (b) to appoint a Malayalee officer in Ceylon to look after the interests of Malayalees and be an intermediary between them and the Ceylonese Government ?

Sir Girja Shankar Bajpai : (a) I would invite the attention of the Honourable Member to pages 100 and 101 of the Donoughmore Commission's report.

(b) The Honourable Member is aware that the Government of India maintain an Agent in Ceylon to look after the interests of all Indians in Ceylon.

Mr. H. A. Sathar H. Essak Sait : In view of the fact that it is the Malayalees against whom this anti-Indian agitation is specially directed, does not my Honourable friend think that it will be better to give them special protection and have a special officer there specially charged with matters relating to Malayalees and the agitation against them ?

Sir Girja Shankar Bajpai : I do not think so, because the agitation against Malayalees is of recent date and the Agent in Ceylon is quite capable of dealing with it.

AGITATION IN CEYLON TO REPATRIATE MALAYALEES.

896. ***Mr. Samuel Aaron :** (a) Will Government please state whether they are aware of the agitation going on in Ceylon to repatriate Malayalees ? If so, what action do Government propose to take in this matter ?

(b) Are Government prepared to enquire about a resolution said to have been passed in the Ceylon State Council to give effect to this proposal, and the action the Government of Ceylon have taken to bring it in force ?

(c) Are Government prepared to appoint a Commission to enquire into the grievances of Indians as regards the anti-Malayalees utterances

made by Mr. Goonasinjee, Member, Ceylon State Council, and the proposed action by the Government of Ceylon in this connection ?

Sir Girja Shankar Bajpai : (a) and (b). The attention of the Honourable Member is invited to the reply given by me to Mr. Satyamurti's question No. 776 of the current Session.

(c) Attention is invited to the reply given by me to part (b) of Mr. T. S. Avinashilingam Chettiar's question No. 1673 on the 17th April, 1936.

†897*.

CONSTRUCTION OF AN OVERBRIDGE AT THE RAILWAY LEVEL CROSSING IN CANNANORE.

898. ***Mr. Samuel Aaron :** (a) Will Government be pleased to state whether they are aware of a resolution passed by the Cannanore Municipal Council to request the South Indian Railway authorities to build an overbridge at the level crossing in Cannanore on the northern side of the Railway station to avoid considerable inconvenience caused to the public ?

(b) If Government are not aware of the fact, are they prepared to enquire into the matter and do the needful ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) This is a matter within the competence of the Railway Administration. If a copy of the resolution passed by the Cannanore Municipality is sent to them, they will deal with it in accordance with the rules on the subject, which lay down the proportion in which costs have to be shared.

NON-PROVISION OF OLD SCALES OF PAY FOR RETRENCHED EMPLOYEES OF THE EAST INDIAN RAILWAY PRESS.

899. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Railway Board decided that the retrenched persons on reappointment after the 15th July, 1931 and before 1st April, 1936, will be entitled to the old scales of pay ?

(b) Is it a fact that the retrenched persons in the East Indian Railway Press, Calcutta, on reappointment on the specified dates, have not been provided with their old scales of pay ?

(c) Are Government aware that the appointment of the retrenched persons in the East Indian Railway Press in other grades causes inconvenience to the people entitled to those grades ?

(d) If the answer to parts (a), (b) and (c) be in the affirmative, will Government be pleased to state the reasons therefor ?

(e) Will Government be pleased to state :

(i) how many persons were reappointed in the East Indian Railway Press between 15th July, 1931 and 1st April, 1936 ;

†This question was cancelled, being the same as the Short Notice question answered on the 5th October, 1936.

- (ii) their grades of appointment ;
- (iii) the pay they were drawing at the time of their reduction ;
and
- (iv) the number of persons not getting promotions in their
respective higher grades on account of the appointment of
the retrenched persons ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would invite the Honourable Member's attention to the Railway Board's letter No. 807-E.G.-II, dated 31st August, 1934, a copy of which is in the Library of the House. Government are informed as follows :

(b) All retrenched staff re-appointed before the 1st April, 1936, and who were originally appointed before the 16th July, 1931, have been granted the old scales of pay. Some of this staff have been accommodated in posts in lower categories than those held by them at the time of retrenchment and are, therefore, at present drawing lower scales of pay.

(c) It may in some instances.

(d) I would invite the Honourable Member's attention to my reply to parts (a) and (b) of the question.

(e) The information is not readily available and its collection will involve an amount of labour and expense not likely to be justified by results.

STOPPAGE OF INCREMENTS OF THE BINDING STAFF OF THE EAST INDIAN RAILWAY PRESS.

900. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the clerical staff Reading Branch of supervising staff, East Indian Railway Press are entitled to increment in their due course ?

(b) Is it a fact that about 70 persons in the Binding Department, who are to retire within a short time are not getting increments for the last five or six years ?

(c) If the answer to parts (a) and (b) be in the affirmative, are Government aware that the stoppage of increment will affect the gratuity and Provident Fund of those persons on their retirement ?

(d) If the answer to part (c) be in the affirmative, what action, if any, are Government going to take in the matter ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) Yes, in accordance with the scales of pay prescribed.

(b) Staff in the binding section are granted increments according to their scales of pay. There are no cases of stoppage of increment.

(c) and (d). Does not arise.

BINDERS IN THE EAST INDIAN RAILWAY PRESS.

901. ***Mr. Amarendra Nath Chattopadhyaya :** Is it a fact that the posts of the binders in the East Indian Railway Press are in inferior service and those of the Government of India Press in superior service ? If so, why ?

The Honourable Sir Muhammad Zafrullah Khan : I would invite the Honourable Member's attention to the reply given by Mr. P. R. Rau to Mr. S. C. Mitra's unstarred question No. 271 on the 11th December, 1933, and to the information laid on the table of the House on the 25th January, 1934, in reply to parts (b) and (c) of the same question.

DISPOSAL OF PETITIONS IN THE EAST INDIAN RAILWAY PRESS.

902. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that as a rule, in all the Presses and other Government Offices, the petitions are to be addressed to the office master and he himself is to deal with those petitions ?

(b) Are Government aware of the fact that the petitions addressed to the Superintendent, East Indian Railway Press, are generally disposed of by the Establishment clerk and by the Head Clerk, and never reach the Superintendent ?

(c) If the reply to parts (a) and (b) be in the affirmative, will Government be pleased to state the reason therefor ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government understand that the usual practice in the Government of India Presses is that petitions on which the Manager of the Press is competent to pass orders are addressed to him and are disposed of by him.

(b) Government are informed that all petitions received, addressed to the Superintendent, East Indian Railway Press, are dealt with personally by that officer.

(c) Does not arise.

PROMOTIONS IN THE EAST INDIAN RAILWAY PRESS.

903. ***Mr. Amarendra Nath Chattopadhyaya :** Are Government aware of the fact that the promotions in the East Indian Railway Press are to be given according to the serial number of the candidates in the classified list issued once a year, but that is not usually done ? If so, why ?

The Honourable Sir Muhammad Zafrullah Khan : I would invite the Honourable Member's attention to the information laid on the table of the House on the 7th April, 1936, in reply to Dr. P. N. Banerjee's starred question No. 1305 asked on the 17th March, 1936.

PROMOTIONS IN THE EAST INDIAN RAILWAY PRESS.

904. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to lay on the table (i) a list of the persons in the East Indian Railway Press promoted to the next higher grade, (ii) their dates of appointment, and (iii) designations ?

(b) Will Government be pleased to lay on the table (i) a list of the persons who have not got promotions, (ii) their date of appointment, and (iii) designations ?

The Honourable Sir Muhammad Zafrullah Khan : The information is not readily available and Government do not consider that the time and labour involved in its collection would be justified by the results.

ALLEGED RUDE BEHAVIOUR OF A BUS CONDUCTOR TOWARDS AN INDIAN IN LONDON.

905. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to an incident reported in the *Amrita Bazar Patrika*, of the 3rd August, regarding the rude behaviour of a bus conductor towards an Indian in London ;
- (b) whether it is a fact that an Indian passenger in a London bus had suggested to the conductor that he might be more civil when demanding his fare ; and was rudely treated by the conductor, calling him a ' black ' ;
- (c) whether it is a fact that the bus conductor told him in the hearing of other passengers that if he was in his own country a few English soldiers would soon give him one in the jaw ; and
- (d) whether they propose to bring this matter to the notice of the Secretary of State for India for suitable action, and if not, why not ?

The Honourable Sir Henry Craik : (a) No.

(b) and (c). I have no information.

(d) No.

Mr. M. Ananthasayanam Ayyangar : Did not the Honourable Member see the *Amrita Bazar Patrika* or does he say that it is wrong ?

The Honourable Sir Henry Craik : I have read the report.

Mr. M. Ananthasayanam Ayyangar : May I know if the Honourable Member has made any inquiries as regards that or made a representation to the Secretary of State for India ?

The Honourable Sir Henry Craik : No.

Mr. M. Ananthasayanam Ayyangar : Does the Honourable Member think that the position and status and privileges of Indians going about in England is a thing which need not be protected and that it is not for the Government of India to take any responsibility in the matter ?

The Honourable Sir Henry Craik : That is a matter of opinion.

Mr. M. Ananthasayanam Ayyangar : Why does not the Honourable Member address the Secretary of State to see that no such thing recurs in future ?

The Honourable Sir Henry Craik : If the Honourable Member will read the article, he will see that the correspondent is apparently pseudonymous, that no address is given, no date is given, no name is given of the Indian, no name is given of the bus conductor, no number is given of the bus : and as there are many thousands of buses plying in London, and many hundreds of Indians going in them and many hundreds of anonymous correspondents, it would be a matter of considerable difficulty to trace to what Indian, what bus and what bus conductor the letter referred.

REDUCTION OF THE SALARIES OF THE SUPERVISING STAFF AND OF THE WORKERS
OF THE EAST INDIAN RAILWAY PRESS.

906. *Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that the salary of the supervising staff, as well as of the workers of the East Indian Railway Press, was reduced in the years 1931 and 1933 ?

(b) Is it a fact that the supervising staff were allowed to have their pay with retrospective effect on restitution ?

(c) Is it a fact that the workers were not allowed their pay on restitution with retrospective effect ?

(d) If the answer to parts (a), (b) and (c) be in the affirmative, will Government be pleased to state if they intend to take any action in the matter and repay the loss of the workers ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) to (d). Do not arise.

COMMITTEE TO ENQUIRE INTO THE WORKING OF THE GOVERNMENT OF INDIA
PRESSES AND STATE RAILWAY PRESSES.

907. *Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that in reply to starred question No. 1301, dated the 17th March, 1936, regarding a committee to enquire into the working of the Government of India Presses and State Railway Presses, the Honourable Member in Charge, Railways, was pleased to state that the reply to questions Nos. 1301 to 1312 would be replied together, as soon as the information is collected ?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member be pleased to state whether the information has been collected ? If not, when are the replies expected ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) Information was laid on the table of the House on the following dates :

1301.	}	7th April, 1936.
1302.		
1304.		
1305.		
1306.		
1307.		
1309.		
1310.	}	

1311. 22nd April, 1936.

1303.	}	31st August, 1936.
1308.		

1312. 11th September, 1936.

COMMITTEE TO ENQUIRE INTO THE GRIEVANCES OF THE EAST INDIAN
RAILWAY PRESS STAFF.

908. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact that a Committee was appointed in 1934 to enquire into the grievances of the press staff of the East Indian Railway ?

(b) Is it a fact that the Committee submitted a report and it was accepted by Government ?

(c) Is it a fact that in paragraph 35 of the said report it was recommended that two more posts of class II binders may be created to make the cadre more balanced ? If so, has the recommendation been given effect to ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes.

(c) The reply is in the affirmative.

RE-APPOINTMENT OF RETRENCHED PERSONS BORNE ON THE WAITING LIST
OF RAILWAYS.

909. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact that the Railway Board issued orders for the re-appointment of retrenched persons borne on waiting lists, which were circulated in the Railway Press, Calcutta *vide* Agent's circular No. A.E.-2581|1, dated the 4th September, 1934 ?

(b) Is it a fact that the said order runs as follows ?

“ The Board have also decided that retrenched persons borne on a waiting list who have been, or may be, re-appointed after the 15th July 1931, but before the 1st April, 1936, will on re-appointment be entitled to the old scales of pay of the service unless they had originally been appointed after the 15th July, 1931, and in a temporary capacity, in which case they will, if re-appointed, receive the revised scales of pay with effect from the dates of their introduction.”

(c) If the answer to parts (a) and (b) be in the affirmative, will Government be pleased to state whether it is the intention of the Board that persons, who had originally been appointed after the 15th July 1931, permanently or in a temporary capacity are not entitled to old scales of pay on their reappointment ? If not, will Government be pleased to state the intention of the Board on the point ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). I would invite the Honourable Member's attention to the Railway Board's letter No. 807-E.G.-II, dated the 31st August, 1934, a copy of which is in the Library of the House.

PROMOTION OF DEMOTED EMPLOYEES IN THE RAILWAY PRESS AT CALCUTTA.

910. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact that the Railway Board issued orders regulating the promotion of “ demoted ” employees in the Railway Press at Calcutta ? If so, will Government be pleased to lay on the table a copy of the said order ?

(b) Is it a fact that the said orders contemplate automatic promotion of a “ demoted ” employee, whenever vacancy occurs, to the grade from which he was demoted ?

(c) Is it a fact that "seniority" in the said orders means "seniority in pay"?

(d) If the answers to parts (b) and (c) be in the negative, will Government be pleased to state their intention on the points in the rules?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The Railway Board's orders regarding the promotion of employees demoted as a result of the economy campaign are contained in the memorandum which accompanied the Railway Board's letter No. 381-L, dated the 20th July, 1932, a copy of which has been placed in the Library of the House.

(c) No. Under the orders quoted the position of seniority of a demoted employee is above men holding similar posts and drawing the same substantive pay as that allowed to the demoted employee.

(d) I would refer the Honourable Member to my reply to parts (a) to (c) of the question.

INDUSTRIAL EMPLOYEES OF THE RAILWAY PRESS AT CALCUTTA.

911. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that before March, 1930, the industrial employees of the Railway Press at Calcutta were hourly and daily rated staff?

(b) Is it a fact that on and from 1st March, 1930, these employees have been designated as monthly rated staff?

(c) Is it a fact that the provision of payment of daily wages for the efficient industrial employees has never been given effect to and has altogether been abolished? If so, why?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) Industrial employees of East Indian Railway Press, Calcutta, were brought on to the revised monthly scales of pay on the 1st November, 1930.

(c) A piece-bonus system was introduced simultaneously. This was abandoned shortly after owing to unsatisfactory results, the amount of work which could be piece-rated on the old hand labour rates being negligible owing to the employment of labour saving machinery.

INTRODUCTION OF NEW SCALES OF PAY IN THE AMALGAMATED RAILWAY PRESSES AT CALCUTTA.

912. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that with the introduction of new scales of pay in the amalgamated Railway Press at Calcutta, the category of staff, number of posts and the grade or scale of pay was fixed by the Railway Board?

(b) Is it a fact that the compositors and the binders were placed in three grades? If so, will Government be pleased to state the maximum of these compositors and binders on the scale of pay as fixed?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) I would invite the Honourable Member's attention to the East Indian Railway's revised scales of pay, 1934, for non-gazetted staff, a copy of which is in the Library of the House.

RECOGNITION OF THE RAILWAY PRESS WORKERS' UNION, CALCUTTA.

913. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact that the Secretary, Railway Press Workers' Union, Calcutta—a registered Union under the Indian Trade Union Act, 1926, as well as a Certified Union under paragraph 18 of part IV of the Government of India Order, 1936—submitted a petition with necessary informations to the Secretary, Railway Board on the 22nd February, 1935, for the recognition of the Union ?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state what steps have been taken for the recognition of the Union ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have not been able to trace any such petition having been received in the Railway Board's Office.

(b) Does not arise.

LEAVE RULES FOR THE INDUSTRIAL EMPLOYEES OF THE RAILWAY PRESS AT CALCUTTA.

914. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact that the Railway Board in its resolution No. 8373-E., dated the 20th February, 1930 framed leave rules applicable to the Government servants employed in the Railway Department and in the extent of application of Annexure I of the said leave rules it has been stated that these rules apply to all Government servants provided that they hold substantively a permanent post under Government on a *monthly rate of pay* or hold a lien on such post ?

(b) Is it a fact that Government in reply to starred question No. 1302 (f) and (g) of the 17th March, 1936 stated on 7th April, 1936 that services of all the staff of the East Indian Railway Press have been placed on *monthly scale of pay* ?

(c) Is it a fact that the industrial employees of the Railway Press at Calcutta are also monthly rated staff ?

(d) If the answer to parts (a) to (d) be in the affirmative, will Government be pleased to state whether the industrial employees of the Railway Press are governed by Annexure I of the Leave Rules ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would invite the Honourable Member's attention to section I of Annexure I of the Railway Board's Resolution No. 8373-E., dated the 20th February, 1930, a copy of which is in the Library of the House.

(b) and (c). Yes.

(d) The reply to the first part of the question is in the negative. Industrial employees of the Railway Press like other labourers employed in the Railway workshops are governed by Annexure II of the Leave Rules referred to in part (a) of the question.

DUTIES OF RECORD SUPPLIERS IN THE CENTRAL FORMS STORE, CALCUTTA.

915. *Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that the duties of record suppliers, Central Forms Store, Calcutta, are mainly :

- (i) receiving forms for the different stores and supervising their stacking on racks for issue and on floor for stock ;
- (ii) putting forms against demands by detailed counting ;
- (iii) checking forms issued by indents and making vouchers and prepare packing notes as also labels for the postal packages ;
- (iv) cutting of stencil plates and marking of packages ; and
- (v) putting up samples for reprinting, and watch stocks ?

(b) Is it a fact that the duties of the junior clerks in the Stationery Offices are mainly :

- (i) reading the addresses from writings on the indents ;
- (ii) reading receipt numbers and printing stencil marks ;
- (iii) writing labels for packages, etc. ;
- (iv) diarising letters and indents ; and
- (v) despatching letters ?

(c) Is it a fact that no minimum qualifications have been laid down for record suppliers in the Central Forms Store or for junior clerks in the Central Stationery Office ?

(d) Is it a fact that the record suppliers of the Forms Store do clerical duties independently and at least a third of the record suppliers are doing work similar to that performed by junior clerks in the Stationery Office ?

(e) Is it a fact that the rates of pay of the junior clerks, Central Stationery and Record Suppliers, Central Forms are 30—1—40 and 20— $\frac{1}{4}$ —27, respectively ?

(f) Is it a fact that the illiterate coolies and the paper counters in the Government of India Press, Calcutta get Rs. 20—1—30 and 25—1—35, respectively ?

(g) Is it a fact that the record suppliers, Forms Store, have prayed to be placed in the grade Rs. 30—1—40 and, if allowed, the immediate increase of cost per annum would be about Rs. 3,000 ?

(h) If the answer to parts (a) to (g) be in the affirmative, are Government prepared to revise the rates of pay of the record suppliers and place them in Rs. 30—40 ? If not, why not ?

(i) Will Government be pleased to lay a statement showing how many junior clerks in the Central Stationery and how many clerks in the Central Forms have been recruited from outside and how many from among the record suppliers during the last five years ?

(j) Will Government be pleased to state under which rules and regulations these record suppliers are guided in their service ?

(k) Is it a fact that some of the record suppliers are working *temporarily* for the last ten years? If so, do Government propose to consider the question of making them permanent?

The Honourable Sir Frank Noyce : (a) to (d). I am not in possession of information regarding the detailed nature of duties performed by the staff in question. So far as I am aware, no minimum qualifications have been laid down for record suppliers in the Central Forms Store or for junior clerks in the Central Stationery Office. I understand that some record suppliers have at times performed clerical duties independently.

(e) Yes.

(f) The pay of paper counters in the Calcutta Press is as stated by the Honourable Member. By illiterate coolies he apparently means labourers; they get a pay of Rs. 18 and 19 per mensem.

(g) and (h). Memorials were received from the record suppliers in the Central Forms Store but were rejected. Government do not propose to reconsider the matter.

(i) Government have no information on the subject and do not propose to collect it as it is not likely to serve any useful purpose.

(j) The record suppliers in the Central Forms Store are in inferior service and are governed by the rules applicable to such service.

(k) Orders have recently been issued transferring 20 out of 25 record suppliers from the temporary to the permanent establishment.

MEMORIALS FROM THE INDUSTRIAL EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

916. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that a memorial from the industrial employees of the Government of India Press, Calcutta, was submitted on 13th May, 1936, in the following manner?

“ To

The Honourable Sir Frank Noyce, Kt., C.S.I., C.B.E.,
Member in Charge, Department of Industries and Labour,
Government of India.

Through :

C. F. Weakford, Esq., M.B.E.,
Controller of Printing and Stationery,
and

E. G. Aylmer, Esq.,
Manager, Government of India Press,

Calcutta,”

Is it a fact that this memorial was returned by the Controller on the ground of not being in proper form?

(b) If the answer to part (a) be in the affirmative, will the Honourable Member in Charge be pleased to state the reasons why the memorial referred to therein was returned?

(c) Will Government be pleased to state what is the condition of submitting these memorials ?

The Honourable Sir Frank Noyce : (a) and (b). I understand that the Controller of Printing received a number of such memorials from piece-workers but these were incorrectly addressed and in accordance with orders issued by the Government of India were returned for submission after correction.

(c) The form and manner of submission of petitions are laid down in Part II of the instructions published with the Home Department Notification No. F. 6/7/33-II, dated the 19th June, 1933.

TRANSFER OF CERTAIN INDUSTRIAL EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA, FROM THE TEMPORARY TO THE PERMANENT ESTABLISHMENT.

917. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Honourable Member in Charge, Department of Industries and Labour, stated in reply to starred question No. 1316, dated the 17th March, 1936, that Government have taken steps for transferring certain industrial employees of the Government of India Press, Calcutta, from the temporary to the permanent establishment ?

(b) Is it a fact that according to that statement the said order has already been communicated to the Manager of the Calcutta Press ?

(c) Is it a fact that the order has not yet been given effect to in the Calcutta Press ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Yes, but I presume the Honourable Member refers to question No. 1313.

(b) and (c). Orders were issued for the transfer of a large number of posts in the Government of India Presses, etc., from the temporary to the permanent establishment, but were not given effect to, as the question was raised whether the confirmation of the incumbents of the temporary posts transferred to the permanent establishment was subject to the orders regarding communal representation. This matter has now been settled and effect will now be given to the Government orders.

CONTRACTS OF AGENCY FOR PURCHASE OF GRAINS FOR MILITARY AND THE MANAGEMENT OF GRAIN DEPÔTS AT CERTAIN PLACES.

918. ***Prof. N. G. Ranga :** (a) Will Government be pleased to state the number of years for which the contracts of agency for purchase of grains for Military, and the management of Grain Depôts at Peshawar, Lahore and Lucknow have been held by Messrs. Owen Roberts and Company ?

(b) How many times during this period were tenders for these two contracts invited, and in which years ?

(c) When were the tenders for these two contracts last called for ?

(d) Is it a fact that the tenders of Messrs. Owen Roberts and Company, for both these contracts, were the highest in rates when they were invited last time ? If so, why were the lower tenders of Indian firms not accepted ?

(e) Will Government be pleased to place upon the table of this House a statement showing the rates quoted by the various firms for both these contracts, separately ?

(f) Will Government be pleased to lay upon the table a statement showing the amount paid to this firm during the last three financial years, for each of the above two contracts, separately ?

(g) Is it a fact that last time both these contracts were given for a period of three years ?

(h) Is it a fact that although three years have passed, still Government have not yet invited tenders for any of these contracts ?

(i) Is it a fact that these contracts with this European firm are going to be renewed for an indefinite period ? If so, why ?

(j) Will Government be pleased to state when the indefinite period will end, and a chance given to some Indian firm ?

(k) Will Government be pleased to state whether they are prepared to give this contract to any Indian firm ?

Mr. G. R. F. Tottenham : (a) Ten years.

(b) Twice in the case of the Grain Purchasing Agency, namely, in November, 1925, and in August, 1933, and once in the case of the Grain Depot Management Agency during August, 1933.

(c) August, 1933.

(d) The reply to the first part is in the negative. The answer to the second part is that Government were satisfied that the tender accepted contained the minimum rates at which services up to the standard required could be obtained.

(e) I am not prepared to disclose the rates tendered.

(f) I lay on the table a statement giving the information asked for.

(g) Yes, from the 1st April, 1934.

(h), (i), (j) and (k). The current contract has not yet expired. But Government have decided to renew it, when it expires next year, for an indefinite period subject to termination on nine months' notice by either side. The reason is that Government are satisfied with the services rendered by the firm and consider that their retention is in the public interest. If in future it is found necessary to call for tenders, all firms—British or Indian—will have an equal opportunity to quote their rates.

Statement.

Year.					Grain purchasing agency.	Grain Depot Management agency.
					Rs.	Rs.
1933-34	..	..	..	..	1,03,043	26,296
1934-35	..	..	..	..	1,01,060	27,334
1935-36	..	..	..	..	1,07,988	27,723
Total				..	3,12,091	81,353

Pandit Krishna Kanta Malaviya : May I know from the Honourable Member if he is convinced that there can be no other firm in this country which can supply grains as satisfactorily as is being done by this firm ?

Mr. G. R. F. Tottenham : I do not think that that question arises, but we were satisfied that this was the best firm.

Pandit Lakshmi Kanta Maitra : May I know if it is the practice in the Military Department to give contracts for an indefinite period of time only terminable on nine months' notice ?

Mr. G. R. F. Tottenham : It is done if it is considered desirable to do so.

Pandit Lakshmi Kanta Maitra : I did not hear the Honourable Member.

Mr. G. R. F. Tottenham : It has been done on several occasions.

Prof. N. G. Ranga : When these contracts are accepted for an indefinite period, how often do Government try to review the results of such contracts ?

Mr. G. R. F. Tottenham : The working of the contract is reviewed every year. We see the accounts of the firm and if we consider that a lowering of the rates is necessary we can give notice.

Pandit Lakshmi Kanta Maitra : In view of the fact that there may be constant fluctuation of market prices of commodities, do Government consider it advisable to have a review of the operations of the contract from time to time and settle with somebody else who can tender at lower rates and give better quality at that rate ?

Mr. G. R. F. Tottenham : I have just answered that question. I have said that the working of the contract is reviewed every year and if the prices have fluctuated and we consider that the firm is making an undue profit we can give notice.

Pandit Lakshmi Kanta Maitra : Why are not fresh tenders called for when there is a fluctuation in market prices and why are not chances given to rival firms to compete for the requirements of the Military Department ?

Mr. G. R. F. Tottenham : If we give notice, the agreement expires and tenders are called for.

Mr. N. V. Gadgil : Is there any proposal at present to give this particular firm a contract for a very long term ?

Mr. G. R. F. Tottenham : I have replied to that in answer to parts (h), (i), (j) and (k). Government have decided to renew the contract with this firm for an indefinite period subject to nine months' notice on either side.

DEFORESTATION OF JAMUGURI RESERVE IN THE BORPATHAR DEVELOPMENT AREA IN GOLAGHAT, ASSAM.

1919. ***Mr. Kuladhar Chaliha :** Will Government be pleased to state whether they have received any proposal from the Government of Assam for the deforestation of Jamuguri Reserve in Borpathar Development

Area in the sub-division of Golaghat in the District of Sibsagar within the Province of Assam ?

Sir Girja Shankar Bajpai : No.

PRIVILEGES ENJOYED BY THE INHABITANTS OF BORPATHAR *Mouza* IN ASSAM.

920. ***Mr. Kuladhar Chaliha :** Will Government be pleased to state :

- (a) whether the inhabitants of Borpathar *Mouza* enjoyed the privilege of ordinary civil and criminal jurisdiction under the High Court of Calcutta till December last ;
- (b) whether suits and criminal cases were tried by the Munsiffs of Golaghat and sub-judge of Jorhat and by Magistrates of Golaghat and Additional Judge A. V. Division and Judge A. V. D., respectively, and whether they enjoyed the privilege of trial by jury till December last ;
- (c) the reason for inclusion of the area in the Mikir Hill Tracts and the exclusion of the people from the privileges so long enjoyed ; and
- (d) whether they are prepared to consider the question of transferring the area from the Mikir Hills and allow the people the privileges which they previously enjoyed, including the right of voting in the general constituencies of Golaghat sub-division ?

The Honourable Sir Frank Noyce : (a), (b), (c) and (d). The Honourable Member is referred to the reply to his question No. 1761 which was placed on the table of the House on the 31st August, 1936.

LATRINES FOR THIRD AND INTERMEDIATE CLASS PASSENGERS ON THE ASSAM BENGAL RAILWAY.

921. ***Mr. Kuladhar Chaliha :** Will Government be pleased to state :

- (a) the size of latrines for third class and intermediate class passengers on the Assam Bengal Railway ;
- (b) whether there is any light in the latrines ; and
- (c) whether they are prepared to advise the railway to improve the latrines in the near future ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The sizes of the latrines vary from 6 square feet to 15½ square feet.

(b) Yes.

(c) Instructions have been issued that the area of latrines in all lower class carriages to be built in future should not be less than 12 square feet.

Dr. Ziauddin Ahmad : Is the Honourable Member aware that some of the latrines are too small for some Members of the Assembly ?

An Honourable Member : For instance, Mr. K. Ahmed. (Laughter.)

Mr. Mohan Lal Saksena : Will the Honourable Member issue instructions that latrines that measure five square feet should be replaced by bigger latrines ?

The Honourable Sir Muhammad Zafrullah Khan : I will send the suggestion down to the Agent.

Fandit Lakshmi Kanta Maitra : And also that hygienic latrines are, as far as possible, introduced in the railways ?

Qazi Muhammad Ahmad Kazmi : Will the Honourable Member also see that in the metre gauge railways also this new dimension of the latrine is followed ?

The Honourable Sir Muhammad Zafrullah Khan : The question does not refer to metre gauge railways.

Qazi Muhammad Ahmad Kazmi : The sizes of the latrines differ in different railways.

The Honourable Sir Muhammad Zafrullah Khan : We have no information here as regards the sizes of latrines on the metre gauge railways.

ARRANGEMENT FOR WATER FOR GUARDS OF THE ASSAM BENGAL RAILWAY.

922. ***Mr. Kuladhar Chaliha :** Will Government be pleased to state whether there is any arrangement for water for guards in the guard-vans of the Assam Bengal Railway ?

The Honourable Sir Muhammad Zafrullah Khan : No. Guards may, if they so wish, carry water in their brake vans in suitable receptacles.

Mr. Kuladhar Chaliha : Will Government advise the Railway to make some arrangement ?

The Honourable Sir Muhammad Zafrullah Khan : This is the arrangement which I have read out.

AMOUNT ALLOTTED TO THE VILLAGE RECONSTRUCTION FUND FOR ASSAM.

923. ***Mr. Kuladhar Chaliha :** Will Government be pleased to state :

(a) the total amount allotted by them to the Village Reconstruction Fund in the years 1934-35 and 1935-36 ; and

(b) the sum allotted to the Province of Assam in the years 1934-35 and 1935-36 ?

The Honourable Sir James Grigg : (a) and (b). I presume the Honourable Member is referring to the Fund for the economic development and improvement of rural areas. No grant was made in 1934-35. The details of the allotment made in 1935-36 from the Government of India grant are set out in the White Paper which I laid before the House on the 6th September, 1935, in reply to Mr. Basanta Kumar Das's question No. 162. The allotment to Assam was Rs. 5 lakhs.

Pandit Lakshmi Kanta Maitra : Is not a statement for current year ready yet ?

The Honourable Sir James Grigg : I laid one on the table of the House yesterday.

Mr. Kuladhar Chaliha : Will Government be pleased to state why, in spite of a larger grant to this Fund, Assam has got a lesser proportion ?

The Honourable Sir James Grigg : Is it the Honourable Member's question that Assam has got less than its proportion according to rural population ?

Mr. Kuladhar Chaliha : Yes, and for its vast area as well.

The Honourable Sir James Grigg : The Honourable Member is quite wrong, because in the case of Assam the population basis has been very heavily loaded and it has got nearly twice its proper proportion.

IMPLEMENTING OF THE CONVENTION ON FORCED LABOUR.

924. ***Mr. V. V. Giri :** (a) Is it true that, in pursuance of the international labour convention on forced labour, the Government of Bombay have recently passed orders prohibiting the impressment of carts for the conveyance of the baggage of Government officials while on tour ?

(b) Will Government make a statement showing the action so far taken by the Central and Provincial Governments and the Governments of the Indian States to implement the forced labour convention ?

The Honourable Sir Henry Craik : (a) Yes.

(b) I would refer the Honourable Member to the reply which I gave to Prof. N. G. Ranga's starred question No. 722 on the 30th September, 1936, and to the replies given to the supplementary questions asked on that occasion. I may add that steps have been taken to induce all Indian States which have not already taken action to enact legislation in regard to forced labour on the lines of the legislation now prevailing in British India, and the Political Officers concerned have been requested to ask States to ensure that the laws so enacted are duly enforced.

Mr. V. V. Giri : With reference to the answer to clause (a) of the question, will Government consider the necessity of directing the other Local Governments to follow the example of Bombay Government ?

The Honourable Sir Henry Craik : I think that has already been done.

Pandit Lakshmi Kanta Maitra : I understood the Honourable Member to say that instructions have been sent to the Agents to initiate legislation on the lines that prevail in British India. May I know when those instructions were sent to the Indian States and whether any of those States have given effect to those instructions ?

The Honourable Sir Henry Craik : I should require notice of that question.

Mr. Mohan Lal Saksena : Is the Honourable Member aware that at railway stations forced labour is taken from the coolies ?

The Honourable Sir Muhammad Zafrullah Khan : I answered that yesterday.

Mr. Mohan Lal Saksena : I have asked the Home Member.....

The Honourable Sir Muhammad Zafrullah Khan : It is not the business of my Honourable colleague to reply on that point. It is my business.

Mr. Mohan Lal Saksena : Is it not the business of the Home Member to see that forced labour is stopped on all stations.

The Honourable Sir Muhammad Zafrullah Khan : I have answered that question yesterday.

Mr. N. M. Joshi : May I know whether the Government have come to any decision as regards the publication of the reports from Local Governments on this question? In reply to my question last time the Honourable Member stated that he would consider the question of publishing the report.

The Honourable Sir Henry Craik : I have not had much time to think it over, but I hope I will probably be able to publish a summary.

Prof. N. G. Ranga : Are Government aware that landlords insist upon forced labour from their tenants, and where the tenants are not in a position to supply this forced labour to the landlords they are made to pay money in lieu of that forced labour?

The Honourable Sir Henry Craik : The Honourable Member is attempting to put in the form a supplementary question a question which was disallowed by the Chair.

Mr. President (The Honourable Sir Abdur Rahim) : This question has been disallowed.

Prof. N. G. Ranga : What steps do Government propose to take to see that extra Government agencies do not insist upon forced labour from tenants and workers?

The Honourable Sir Henry Craik : There, again, as far as I remember, it is a question which was disallowed by the Chair. In any case it refers to forced labour by private persons and the main question refers to forced labour for public purpose.

UNSTARRED QUESTIONS AND ANSWERS.

PERSONS SUSPENDED IN THE EAST INDIAN RAILWAY PRESS.

82. **Mr. Amarendra Nath Chattopadhyaya :** Will Government please state :

- (i) how many persons were suspended in the East Indian Railway Press from January, 1935 to December, 1935 ;
- (ii) the reason for their suspension ;
- (iii) if any appeals were filed with the Government or the Agent regarding the suspension ; and
- (iv) the result of the appeals ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no information. These are matters of detailed administration within the competence of the Agent, East Indian Railway, to whom a copy of the question has been sent for information and such action as he may consider necessary.

COURT OF ENQUIRY REGARDING THE RETRENCHMENT OF STAFF ON RAILWAYS.

83. **Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) whether it is a fact that the All-India Railwaymen's Federation has applied under the Indian Trade Disputes Act for a Court of Enquiry to enquire into the dispute regarding the retrenchment of staff on Indian Railways ;
- (b) if so, whether they propose to grant the application ; and
- (c) if not, why not ?

The Honourable Sir Frank Noyce : (a) No.

(b) and (c). Do not arise.

RETRENCHMENT ON STATE RAILWAYS.

84. **Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) whether it is a fact that they propose to retrench certain categories of the staff on Indian State Railways ;
- (b) the number of men to be retrenched on each railway and the categories to which they belong ;
- (c) the amount of saving which is expected to be secured on each railway by the retrenchment of the staff ; and
- (d) the principles and method followed in selecting the staff for retrenchment ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). As stated by me in reply to part (a) of question No. 644 asked by Dr. Ziauddin Ahmad on the 28th September, 1936, the adjustment of the numerical strength in various categories of establishments to current requirements is proceeding, involving in some cases the discharge of surplus staff.

The number of men to be discharged is not fixed with the intention of securing any pre-determined amount of saving, and as the adjustments are progressing I am unable to give any definite numbers or amounts.

The latest estimates available, however, indicate the approximate numbers surplus at present on the State-managed Railways to be :

North Western Railway	..	..	613
Eastern Bengal Railway	..	..	61
Great Indian Peninsula Railway	..	..	67
East Indian Railway	..	..	195
Burma Railways	..	..	278

In addition there are on the North Western Railway 2,638 men at present being carried in categories in which the pay is lower than that which they are drawing and whose position has also to be adjusted.

The approximate additional numbers estimated as likely to become surplus in the course of the next six months are :

North Western Railway	..	..	740
Eastern Bengal Railway	..	..	<i>nil.</i>
Great Indian Peninsula Railway	..	..	808
East Indian Railway	..	..	664
Burma Railways	..	..	69

(d) I would refer the Honourable Member to the reply given to part (a) of starred question No. 371 asked by Mr. Mohan Lal Saksena.

WAGES IN THE MANUFACTURE OF SUGAR AND IN THE CULTIVATION OF SUGAR-CANE.

85. **Mr. N. M. Joshi :** Will Government be pleased to state :

- (a) whether manufacture of sugar is a protected industry ;
- (b) whether the Local Governments have been given power to fix the price of sugar-cane for the protection of the growers of sugar-cane ;
- (c) if the answer to parts (a) and (b) above be in the affirmative, whether they propose to enquire into the effect of protection and of fixing the price of the sugar-cane, on the wages of the wage-earners engaged in the manufacture of sugar and in growing sugar-cane and publish a report regarding the wages in the manufacture of sugar and in the cultivation of sugar-cane ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) Yes, subject to the control of the Governor General in Council.

(c) Many of the wage-earners are themselves producers. It does not seem possible in practice to differentiate between the agricultural worker in a cane-field and the agricultural worker in fields growing other crops for which no minimum price has been fixed. But as I promised in reply to the Honourable Member's supplementary question to Mr. M. Ananthasayanam Ayyangar's question No. 10 on the 31st August, 1936, I shall pass the suggestion on for the consideration of the Local Governments concerned.

PREVENTION OF ACCIDENTS IN THE CONSTRUCTION OF BUILDINGS.

86. **Mr. N. M. Joshi :** Will Government be pleased to state :

- (a) whether they have recently considered the question of the regulation of the work of building construction with a view to preventing accidents to those engaged in that kind of work ; if so, what is their decision ; and
- (b) whether they had collected the opinions of the Provincial Governments and organisations concerned on the subject and, if so, what they are ?

The Honourable Sir Frank Noyce : (a) and (b). My department received from the International Labour Office on the 15th August a questionnaire and report drawn up on the basis of the preliminary examination of this subject by the recent International Labour Conference. These papers are being examined with a view to framing a reply. No conclusion has been reached regarding the desirability of a reference to Local Governments at this stage and no question of taking a final decision will arise until we are in possession of the conclusions that may be reached at the Conference to be held next year.

**ADVISERS TO DELEGATES REPRESENTING INDIAN LABOUR AT THE
INTERNATIONAL LABOUR CONFERENCES.**

87. Mr. N. M. Joshi : Will Government be pleased to state whether they propose to take steps to increase the number of advisers to the Delegate representing Indian Labour at the annual conferences held by the International Labour Organisation at Geneva ?

The Honourable Sir Frank Noyce : They have no such proposals under consideration at present.

**FIXATION OF THE VALUE OF A SHILLING IN INDIAN CURRENCY FOR THE SALE OF
ENGLISH BOOKS AT THE WHEELER'S STALLS ON RAILWAY STATIONS.**

88. Mr. N. M. Joshi : Will Government be pleased to state :

(a) whether they have fixed the value of a shilling (British) in Indian currency for the sale of English books at the Wheeler's stalls on Indian Railway Stations and if so, what it is ; and

(b) if not, whether they propose to do so shortly ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The matter was taken up by Government with Messrs. Wheeler and Company who have agreed to reduce the price of *The Strand Magazine* and *The Wide World Magazine* from Re. 1-2 to Re. 1 and are also arranging, with effect from 1st January, 1937, to reduce the price of shilling novels from one rupee to fourteen annas.

HEALTH INSURANCE AND SICK LEAVE FOR INDUSTRIAL WORKERS.

89. Mr. N. M. Joshi : Will Government be pleased to state :

(a) whether they have received the opinions of the Provincial Governments and of the public organisations concerned on their latest circular regarding Health Insurance and sick leave for industrial workers ;

(b) if so, whether they propose to publish those opinions and when ; and

(c) whether they propose to take any other action on the subject ?

The Honourable Sir Frank Noyce : (a) to (c). The last reply to the Government of India's circular on sickness insurance was received in July last and all the replies are now under examination. The question of publishing the opinions will be considered in that connection.

SPECIAL LABOUR REPRESENTATION IN THE PROVINCIAL LEGISLATIVE COUNCILS.

90. **Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) whether they are aware that in the Provincial Legislative Councils (Upper Chambers), to be set up under the new constitution, there is no special labour representation ; and
- (b) whether they propose to recommend to the Secretary of State for India to include in the draft Instrument of Instructions an instruction to the Governors to nominate one person to represent labour interests in the Provincial Councils in their provinces ?

The Honourable Sir Nripendra Nath Sircar : (a) Yes.

(b) The matter is under the consideration of the Government of India.

VERNACULAR SCHOOLS IN THE RAILWAY COLONY AT FREELANDGANJ, DISTRICT PANCHMAHALS.

91. **Mr. N. M. Joshi** : (a) Is it a fact that there are four vernacular schools conducted within the colony at Freelandganj, District Panchmahals ?

(b) If so, how many boys and girls are there in each of these schools ? What is the number of teachers in each school ?

(c) What is the total expenditure incurred on each school :

Marathi, Hindi, Urdu and Gujarathi ?

(d) Does the Bombay, Baroda and Central India Railway Company give any grant to any of these schools ? If so, what is the amount of grant paid to each ?

(e) Are there any schools which do not receive such grant ? If so, why ?

(f) Has the Bombay, Baroda and Central India Railway Company made any arrangement for the buildings for these schools ? If so, what is that arrangement ?

(g) Does the Company charge any rent to these schools ? If so, to which school and what amount ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) Yes.

(b) I lay a statement on the table of the House giving the required information.

(c), (d) and (e). The Gujarathi is a Railway School and the entire expenditure—which is Rs. 2,200 approximately per annum—is borne by the Railway. The other schools are private schools and receive no grant from the Railway. It is not obligatory on the Railway to make grants to non-Railway schools.

(f) All the schools are housed in residential quarters.

(g) In the case of the Railway Gujarathi School the question of rent does not arise.

A concessional rent of Rs. 25 is charged to the Marathi School instead of the standard rent of Rs. 32 per mensem. No rent is charged to the Hindi and Urdu schools which are held in Railway quarters rented by the staff.

Statement showing number of Pupils and Teachers in Different Schools at Freelandganj.

			Gujarathi.	Marathi.	Hindi.	Urdu.
No. of Boys	..	..	82	81	40	20
No. of Girls	..	..	86	69	15	22
No. of Teachers	..	..	4	4	2	1

LAWS AFFECTING LABOUR.

92. **Mr. N. M. Joshi :** (a) Will Government be pleased to lay on the table of the House a list of the laws affecting labour in India, passed by Central or Provincial Legislatures, together with a list of any rules or regulations framed under these laws, stating in each case the latest year in which they were passed ?

(b) Have Government considered the desirability of publishing all these laws and regulations as a handy labour law manual and, if so, what is the result ? If not, do they propose to consider the question at an early date ? If not, why not ?

The Honourable Sir Frank Noyce : (a) No complete list of the rules and regulations is readily available, and I assume that the Honourable Member is acquainted with the important labour laws. But a review of labour legislation is under preparation and will, I hope, be published shortly. This will cover all labour legislation, Central and Provincial, passed since the Whitley Commission reported and will contain references to labour Acts of any importance which are of an earlier date and are still in force.

(b) The answer is in the negative. The Acts and the more important regulations are available separately in a handy form at cheap rates. The number of persons who are interested in all of them is very small, and it is not likely that there would be any appreciable demand for the bulky volume that would be required to contain them all. Some manuals of limited scope are already available ; for example, the Central Government has published a manual containing the Tea Districts Emigrant Labour Act, the various rules made by the Central and Provincial Governments under it and certain other relevant matter.

LABOUR LAWS IN FORCE IN INDIA.

93. **Mr. V. V. Giri :** Will Government lay on the table a list of the various labour laws promulgated by the Central and the Provincial Governments which are now in force in the country ?

The Honourable Sir Frank Noyce : I would refer the Honourable Member to the reply given by me to Mr. Joshi's unstarred question No. 92, to-day.

DISPOSAL OF APPEALS AGAINST ORDERS OF DISCHARGE OR DISMISSAL ON STATE RAILWAYS.

94. **Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the reply given in this House to unstarred question No. 53 on the 4th February, 1936, regarding disposal of appeals against orders of discharge or dismissal passed on employees on State-managed Railways, will Government please state whether the Agent, East Indian Railway, *vide* his circular No. 449, dated the 14th September, 1925, delegated powers, with effect from the 1st October, 1925, to Divisional Superintendents in regard to discharge, dismissal, appeals, etc. ?

(b) If the answer to part (a) be in the affirmative, will Government please state :

- (i) what rules were in force in regard to discharge, dismissal, appeals, etc., between the period when the State assumed the management of the railway, *i.e.*, from 1st January, 1925, up to the 30th September, 1925 ?
- (ii) whether non-gazetted staff could be discharged or dismissed during the period referred to in part (i) by Divisional Superintendents ; if so, under what rules ; and
- (iii) under what rules were such discharged or dismissed staff governed in the matter of appeals ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) Yes.

- (b) (i) and (iii). Pending the formal delegation of powers arising out of the re-organisation of the East Indian Railway on a divisional basis Divisional Superintendents continued to exercise whatever powers had hitherto been exercised by District Officers under the old organisation, subject to any subsequent orders which might have been issued on specific matters during the interim period.

So far as *ex-company* employees were concerned the right of appeal to the Home Board was conferred on all employees. When the State assumed the management of the East Indian Railway on the 1st January, 1925, it was necessary to modify these orders and the staff were accordingly advised that the Agent would entertain appeals regarding dismissal and discharge and loss of gratuity while in other matters appeals would only lie to the officer immediately above that passing the order.

- (ii) Yes, to the extent that this was permissible under the orders previously in force as explained in my reply to (b) (i) and (iii) above.

RULES FOR CHARGING RENTS FROM THE EMPLOYEES ON THE EAST INDIAN RAILWAY.

95. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Railway Board have introduced, with effect from the 1st October, 1932, new rules governing rent to be charged from employees on the East Indian Railway ? If so, do these rules apply to the gazetted and the non-gazetted staff ?

(b) Is it a fact that the non-gazetted staff are required to pay more rent for the rooms occupied by them than the gazetted staff ?

(c) If the answer to part (b) be in the negative, will Government please state :

(i) whether shunters, drivers, guards, etc., on the Allahabad Division are required to pay ten per cent. of pay and over-time for one room and at Rs. 10 per room if in occupation of more than one room ;

(ii) whether the Superintendent, Staff, a senior scale gazetted officer, who deals with the house-rent matters on that Division, pays Rs. 29 for a large bungalow with an immense compound :

(iii) the number of rooms and out-offices in the said bungalow ;

(iv) whether the Divisional Superintendent pays Rs. 160 for a partly double and partly three storey palatial building ; and

(v) the number of rooms and out-offices in the said buildings ?

(d) Is it a fact that the Divisional Superintendent has recommended that non-gazetted staff in receipt of less than Rs. 120 should be given one room ; less than Rs. 299 two rooms ; less than Rs. 449 three rooms ; and on Rs. 450 and over four rooms ? If so, has he made similar recommendations for the gazetted staff on his Division ?

(e) Do Government propose to take action in the matter and see that the non-gazetted staff are better treated in regard to accommodation ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, except that in the case of junior and senior scale officers the date of introduction of the rules was earlier, viz., 1st October, 1931.

(b), (c), (d) and (e). Government have no information. These are matters of detailed administration within the competence of the Agent, East Indian Railway, to whom a copy of the question has been sent for information and such action as he may consider necessary.

SELECTION AND PROMOTION OF GUARDS ON THE EAST INDIAN RAILWAY.

96. **Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the reply given in this House to starred question No. 1693 on the 17th April, 1936, will Government please state :

(i) whether similar instructions were issued by the Railway Board to the Agent, Eastern Bengal Railway ; if not, why not ;

(ii) what action has been taken by the Agent ;

(iii) whether vacancies in the higher class of guards are filled by selection or by seniority from among those in service as guards, and

(iv) whether such vacancies are also filled by direct recruitment; and if so, under what rule of the rules issued by the Railway Board for the recruitment and training of non-gazetted staff on State-managed Railways is this permissible?

(b) Is it a fact that guards recruited direct to class "B" and on the revised scales of pay are treated as senior to those in class "A", representative of the facts that they are in receipt of more pay and have many years of service to their credit? If so, what is the reason for this differential treatment in favour of outsiders?

(c) Are new recruits to the gazetted service on the Eastern Bengal Railway appointed to the senior classes and on the revised scale of pay of those classes and are treated as senior to the gazetted officers already in the service but on the junior scales? If not, what are the reasons for this difference in the treatment between the gazetted and the non-gazetted staff?

(d) Do Government propose to issue instructions to safeguard the prospects of those who are in the service against this method of filling up of posts in the senior classes by the direct recruitment of outsiders? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) (i). The Railway Board are unable to trace any instructions having been issued either to the Agent, East Indian Railway or the Eastern Bengal Railway.

(ii) Does not arise.

(iii) Promotion of 'A' class guards to higher classes is made by selection.

(iv) The reply to the first part is in the affirmative. As regards the latter part, I would invite the Honourable Member's attention to note 1 of rule 17 of the 'Rules for the recruitment and training of subordinate staff on State-managed Railways', a copy of which is in the Library of the House.

(b) Government are informed that seniority is determined by pay.

(c) The question is not understood.

(d) Government do not consider any action is necessary.

NOTICE TERMINATING THE SERVICES OF A NON-GAZETTED RAILWAY EMPLOYEE.

97. Mr. Amarendra Nath Chattopadhyaya: (a) Will Government please state the actual meaning of the words:

"you are discharged with immediate effect with a month's pay in lieu of notice. You will cease to be in service on and from date",

occurring in a notice terminating the services of a Railway non-gazetted employee, dated the 19th September?

(b) When is such notice to be issued, i.e., previous to the date on which it is to take effect or on that particular date ?

(c) Up to what date will a non-gazetted employee who has been served with a month's pay in lieu of notice on the 19th September and which notice has been served on him during the course of that day be paid his wages (i) for the days he has worked, and (ii) for the month's pay in lieu of notice ?

(d) Is it a fact that Railway Administrations have issued such notices and have served them on the staff on the dates shown on the said notices and have declined to pay them the one day's wages involved ? If so, what action do Government propose to take in the matter ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (c). If the notice was served on the employee on the forenoon of 19th September, he would cease to be in service from the same date and that day will not be included in the days worked by the employee but will be included in the month's pay in lieu of notice.

(d) Government have no information, but I am sending a copy of the question and the reply to the Agents, State-managed Railways for information and such action as they may consider necessary.

STAFF WITH DEFECTIVE VISION EMPLOYED AS DRIVERS AND ASSISTANT LOCO. FOREMEN, ETC., ON STATE RAILWAYS.

98. Mr. Amarendra Nath Chattopadhyaya : (a) Will Government be pleased to state whether staff with defective vision are permitted to be employed in such posts as drivers, Assistant Loco. Foreman, etc., on State-managed Railways ? If so, is not the safety of the travelling public endangered ?

(b) If the answer to part (a) be in the negative, will Government please state :

- (i) whether this rule is in operation on the Eastern Bengal Railway ;
- (ii) whether staff with defective vision are employed as Assistant Loco. Foremen at Calcutta ;
- (iii) whether in emergencies the Assistant Loco. Foremen are required to move trains ;
- (iv) whether they are also required to go out in charge of relief trains ;
- (v) whether such staff are required, at regular intervals, to be tested in vision by the Medical Department ; and
- (vi) what officials are responsible for seeing that staff with defective vision are not utilised till such time they pass the medical examination ?

(c) Do Government propose to instruct the Agent to see that the safety of the travelling public is not endangered by the employment of staff with defective vision in such responsible posts ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). I would invite the Honourable Member's attention to the " Regulations

for the Medical Examination of candidates and employees, non-gazetted (including inferior) and labourers' grades, Indian State Railways", a copy of which is in the Library of the House. Government are informed that these regulations are being followed on the Eastern Bengal Railway.

PURCHASE OF COAL BY STAFF FROM THE RAILWAYS FOR THEIR OWN USE.

99. **Mr. Amarendra Nath Chattopadhyaya :** (a) What is the policy of Government in the Railway Department in regard to the gazetted and non-gazetted staff purchasing coal from the railways for their own use? Is this permissible? If so, are the staff charged the same rates as incurred by the Railway for the purchase of the same? If not, what concession is given?

(b) Does the policy referred to in part (a) apply to the East Indian Railway? If so, is this Railway permitted to treat its staff differently in the matter of charges?

(c) Is it a fact that at Howrah the gazetted staff are supplied with steam coal at Re. 0-2-6 per maund and the non-gazetted staff at Re. 0-4-0 per maund and that while soft coke is sold to the gazetted staff at Re. 0-3-0 per maund, it is refused to the non-gazetted staff?

(d) Has this leakage to revenue in the matter of the lower charges to the gazetted officers been scrutinized by the Job Analysis staff? If so, with what results? If not, why not, and is it a fact that they also purchase at such low rates?

(e) Do Government propose to recover the loss or the difference in the prices of coal and soft coke from the pay of the officers concerned for purchases made during the past year? If not, why not?

(f) Do Government propose to take action in the matter and order that there must be one charge applicable to all the staff?

The Honourable Sir Muhammad Zafrullah Khan : (a) No policy has been laid down by Government in this matter but they are informed that both gazetted and non-gazetted staff on the four State-managed Railways are permitted to purchase coal and coke from the Railway for their domestic use at prescribed rates which are higher than the cost of the coal to the Railway.

(b) Government are informed that gazetted and non-gazetted staff are treated alike on the East Indian Railway.

(c) Government are informed that gazetted and non-gazetted staff of the Howrah Division are supplied with coal and coke at the same rates.

(d) to (f). Do not arise.

PASSING OF THE GOODS ACCOUNTS EXAMINATION BY GOODS CLERKS AT HOWRAH.

100. **Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the statement laid on the table of the House on the 24th February, 1936, in reply to unstarred question No. 90 of the 4th February, 1936, will Government please state whether the Head Goods Clerks, Goods Clerks

and Assistant Goods Clerks at Howrah are required to pass the goods accounts, higher or lower examination ?

(b) Is it a fact that staff employed on grades below that of an Assistant Goods Clerk at Howrah are required to pass the goods accounts lower examination ?

(c) What are the present grades of pay of the posts of Head Goods Clerks, Goods Clerks and Assistant Goods Clerks at Howrah Goods ?

(d) Have any of the staff occupying these posts passed the higher examination ? If so, how many have and how many have not ?

(e) Do Government propose to take any action in the matter ? If so, what ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The passing of the Goods Accounts Examination (Lower) is necessary for promotion to the posts of Head Goods Clerks, Howrah (which posts were formerly designated as Assistant Goods Clerks, inwards and outwards) and also for Goods Clerks.

(b) No. The designation of Assistant Goods Clerk at Howrah no longer applies.

(c) The revised scales of pay introduced in 1934 are shown below :

			Rs.
Goods Supervisor	..	..	260
Head Goods Clerks	..	..	180
Goods Clerks	..	..	100—10½—120.

(d) and (e). Government have no information. This is a matter of detailed administration within the competence of the Agent to whom a copy of the question has been sent for information.

APPLICABILITY OF THE GOVERNMENT SERVANTS' CONDUCT RULES TO THE STAFF ON STATE RAILWAYS.

101. **Mr. Amarendra Nath Chattopadhyaya :** Is it a fact that the Government Servants' Conduct Rules, corrected up to July 1936, have been superseded by those framed by the Secretary of State for India, *vide* Home Department Notification No. F. 50/20-34-Pub., dated the 24th December, 1935 ? If so, will Government please state :

- (i) when these rules became operative on State-managed Railways ;
- (ii) why the extracts from enactments relevant to the conduct of Government servants, published as an Appendix to the old rules have been omitted from the new ones ;
- (iii) whether those enactments have ceased to operate with the introduction of the present rules ; and
- (iv) what procedure must be observed before action can be taken under Rule 15 ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, in respect of those Government servants who are referred to in rule 2 (1) of the rules published in the Notification of the 24th December, 1935.

(i) These rules are not operative on the State-managed Railways. The question of framing similar rules for State-managed Railways is under consideration.

(ii) and (iii). As the purport of the enactments has been included in the Government servants' conduct rules, Government did not consider it to be necessary to reprint extracts from those enactments in the pamphlet.

(iv) I do not understand the question. Rule 15 lays down a prohibition : it does not provide for action.

FORWARDING AGENTS AT THE HOWRAH GOODS SHEDS.

102. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it the policy of Government in the Railway Department that Europeans and Anglo-Indians, who are employed as Forwarding Agents at Goods Sheds or Stations, must confine their work to European and Anglo-Indian firms only ? If so, what is the reason for this racial discrimination ?

(b) If the answer to part (a) be in the negative, will Government please state :

(i) why such restrictions have been imposed by the Divisional Superintendent, East Indian Railway, Howrah, in respect of the Forwarding Agents at the Howrah Goods Sheds ;

(ii) how many European and Anglo-Indian forwarding agents are employed at the Howrah Goods Sheds ;

(iii) whether any licence fee is paid by these agents ; and

(iv) whether their appointments are the gifts of the Superintendent, Commercial ; if not, what are the required qualifications ?

(c) Do Government propose to put a stop to this racial discrimination ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The reply to the first part is in the negative. The latter part does not arise.

Government are informed as follows :

(b) (i) No restriction has been imposed by the Divisional Superintendent, Howrah.

(ii) One European and one Anglo-Indian Forwarding Agent are now employed in Howrah Goods.

(iii) No licence fee is paid by them.

(iv) The appointments are made by the Divisional Superintendent on recommendations received from the Mercantile community and other credentials of the applicant.

(c) Does not arise.

PROCEDURE *re* CONDEMNATION OF AN EMPLOYEE ON THE EAST INDIAN RAILWAY.

103. **Mr. Amarendra Nath Chattopadhyaya :** Will Government please state the procedure on the East Indian Railway that must be observed

before an employee can be condemned as unsuitable for the post he holds ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no information. The matter is within the competence of the Agent, East Indian Railway, to whom a copy of the question has been sent for information.

COMMERCIAL AND TRANSPORTATION DEPARTMENTS OF THE EAST INDIAN RAILWAY.

104. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government please state :

- (i) whether the Commercial and Transportation Departments of the East Indian Railway are considered as one unit for the promotions or transfers of the non-gazetted and the gazetted staff ;
- (ii) whether the Transportation non-gazetted staff are eligible for promotions or transfers to the Commercial side ; if so, whether this is in accordance with the rules framed by the Railway Board for the recruitment and training of the non-gazetted staff ;
- (iii) whether the non-gazetted Transportation staff must have practical experience in Commercial working before they can become eligible for promotions or transfers ;
- (iv) whether non-gazetted staff of the Transportation side without any Commercial experience have been posted to the higher Commercial posts of Commercial Inspectors, Luggage and Parcel Supervisors, Goods Clerk at Howrah Goods Sheds, etc. ; if so, why ;
- (v) whether the non-gazetted Commercial staff are refused both promotions or transfers to the Transportation side on the ground of inexperience in Transportation work ; and
- (vi) whether they are aware that the non-gazetted staff on the Commercial side have grievances as to the blocking of their avenues to promotions in the higher grades by men of the Transportation side ?

(b) Do Government propose to take any action in the matter ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) to (v). I would invite the Honourable Member's attention to my reply to parts (a) (i) to (iv) of Mr. M. Ananthasayanam Ayyangar's unstarred question No. 1 asked on the 31st August, 1936.

(vi) No.

(b) No action is called for.

POSTS OF TRANSPORTATION INSPECTORS SANCTIONED BY THE EAST INDIAN RAILWAY.

105. **Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the reply given in this House to unstarred question No. 5 on the 2nd

September, 1935 relating to posts of Transportation Inspectors sanctioned by the East Indian Railway, will Government please state who is the promoting authority when the Head of a Department and his subordinate officer, the Superintendent, Staff, sit on a Selection Board to nominate certain men for promotion ?

(b) Is it a fact that that was the only occasion when the Chief Operating Superintendent sat on a Selection Board to nominate employees for promotions to senior posts under his control ? If so, why ? If not, is this practice still in force ?

(c) How many of the seven Inspectors have passed the goods account higher examination ? If the passing of this examination insisted on for the Commercial staff before they can be promoted to this post ?

(d) Is it a fact that the seven Inspectors who have been promoted belong to the Transportation side while the posts are on the Commercial side ?

(e) Is it also a fact that these Inspectors have since been absorbed in other posts ?

(f) Do Government propose to take action against this method of promotions ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would invite the Honourable Member's attention to Mr. P. R. Rau's reply to part (b) of Mr. Muhammad Azhar Ali's unstarred question No. 5 asked on the 2nd September, 1935.

(b) to (f). Government have no information. These are matters of detailed administration within the competence of the Agent to whom a copy of the question has been sent for information.

CONGESTION IN THE OFFICE OF THE CHIEF COMMERCIAL MANAGER, EAST INDIAN RAILWAY.

106. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the office of the Chief Commercial Manager, East Indian Railway, is overcrowded with non-gazetted staff and that the rate of death and sickness is unduly high ?

(b) What is the floor area and how many clerks are accommodated ?

(c) How many deaths have taken place in the past year and what diseases did these men die of ?

(d) Do Government propose to have this room inspected by the Chief Medical Officer of that Railway and another Government official with a view to relieve the congestion in that office ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no information. The matters referred to are within the competence of the Agent, East Indian Railway, to deal with and a copy of the question has been sent to him for information and such action as he may consider necessary.

PRECAUTIONS FOR THE SAFETY OF THE TRAVELLING PUBLIC.

107. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that it is obligatory on the part of Railway Administrations to take all reasonable precautions for the safety of the travelling public ? If so, will Government please state :

- (i) whether conductor guards were posted on the mail trains during the night journeys on the East Indian and Eastern Bengal Railways ;
 - (ii) the reasons why these men were so employed ;
 - (iii) whether both these Railways have recently, as a measure of economy, discontinued this precautionary measure ; and
 - (iv) whether an upper class passenger has recently, after the discontinuance of this protectionary measure on the Eastern Bengal Railway, been murdered ?
- (b) Do Government propose to set aside this avenue of economy with a view to restoring the confidence of the travelling public ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

- (i) Yes.
- (ii) To assist passengers on long journeys, particularly ladies travelling alone.
- (iii) On the Eastern Bengal Railway, Conductor Guards have not been employed since April, 1929, and on the East Indian Railway, out of six Conductor Guards four were withdrawn about three months ago and the remaining two will be withdrawn as soon as they can be absorbed in other categories.
- (iv) It is presumed the Honourable Member is referring to a case in which it is alleged a passenger was murdered in 7 Up Mail on the night of 4th/5th August, 1936, a train on which a Conductor Guard has not been provided since 1910.

(b) Government do not consider that the provision of a Conductor Guard on a train would eliminate the possibility of murderous attack on passengers.

EMPLOYMENT OF THE INFERIOR STAFF OF THE IMPERIAL LIBRARY, CALCUTTA, ON CLERICAL DUTIES.

108. **Mr. Amarendra Nath Chattopadhyaya :** Will Government please state whether the inferior staff of the Imperial Library at Calcutta are regularly employed as clerical staff ? If so, is it a fact :

- (i) that they are not given the difference in pay when they are employed in more responsible posts ; if so, why ;
- (ii) that the starting pay of the sorters is Rs. 20 and that of the clerks, Rs. 50 ;
- (iii) that, when employed as clerks, they are punished with fines, the minimum amount being rupees two ;

(iv) that these fines are inflicted on all the staff, when it is found that any books or pages of books are missing ;

(v) that many readers have been caught red-handed removing books or pages from books and in such cases they have been warned, or their cards forfeited as a temporary measure ; and

(vi) that there are twelve sorters and sixteen clerks employed ?

Sir Girja Shankar Bajpai : (a) The answer to the first part is no.

(i) and (iii). Do not arise.

(ii) Is correct except that the starting salary of clerks under the Revised Pay Rules is Rs. 45 per mensem.

(iv) Fines are only inflicted in cases of gross negligence on those guilty of it.

(v) There have been such cases.

(vi) There are 13 clerks and 12 sorters.

SORTING OFFICE OF THE IMPERIAL LIBRARY, CALCUTTA.

109. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Ritchie Committee, consisting of Sir Ashutosh Mukerjee and Sir Phillip Buckland, recommended that the sorting staff of the Imperial Library should be treated as clerical and not as inferior staff ? If so, why has the recommendation not been given effect to ?

(b) Is it a fact that the duties performed by these men are of a clerical nature ? If so, why have they been designated inferior staff ?

(c) Do Government propose to have this matter examined again with a view to treating this body of men more equitably ?

Sir Girja Shankar Bajpai : (a) and (b). No. The duties performed by the sorters of the Imperial Library are not of a clerical nature ; the sorters cannot therefore be classed as "superior".

(c) No.

TREATMENT OF RAILWAYS AS A COMMERCIAL PROPOSITION.

110. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that it is the declared policy of Government that railways are to be treated as a commercial proposition ?

(b) If the answer to part (a) be in the affirmative, will Government please state :

(i) whether the Divisional Superintendent, Howrah, has issued a tender notice inviting tenders for various works to be done at Howrah station in connection with provision of new waiting rooms, booking offices, platform sheds, sanitary arrangements, etc. ;

(ii) whether the estimated cost is over rupees three lakhs ;

(iii) whether the Agent, Bengal Nagpur Railway, in opposing the expenditure of this large sum of money at a time of financial

stress, has stated that the present arrangements have stood the test of time ;

(iv) whether waiting rooms have since been provided for gazetted officers only at Howrah Station : if so, what is the cost of the same ; and

(v) whether any such waiting rooms are to be provided for the non-gazetted staff ; if so, what is the estimated cost ?

(c) Is there any policy in regard to the expenditure of large sums of money on remodelling on the East Indian Railway ? If so, what conditions must first be satisfied before expenditure is incurred ?

(d) Do Government propose to have this matter investigated with a view to the prevention of large sums of money being spent on improvements ? If not, will Government please state the reasons why ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) (i) The scheme has been sanctioned. Government are not aware of the stage it has reached.

(ii) No.

(iii) The Agent, Bengal Nagpur Railway, has approved of the scheme.

(iv) and (v). The Honourable Member is referred to the reply laid on the table on the 20th April, 1936, in answer to his question No. 465 put on the 7th April last.

(c) Remodelling must be financially justified unless required on account of damage such as that caused by earthquakes, or to deal with increased traffic.

(d) No. Government consider that the present system of control is adequate to prevent unjustifiable expenditure.

DISCIPLINARY ACTION AGAINST THE NON-GAZETTED STAFF ON THE EASTERN BENGAL RAILWAY.

111. ***Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the reply given in this House to unstarred question No. 155 of the 18th February, 1936 (statement laid on the table of the House on the 27th February, 1936), regarding disciplinary action against the non-gazetted staff on the Eastern Bengal Railway, will Government please state whether subordinate heads of sections, e.g., Station Superintendents, are permitted when forwarding reports against the non-gazetted staff to the Divisional Superintendent to request that punishment be inflicted in order to maintain his prestige ? If so, under what rule ?

(b) Is it a fact that the Station Superintendent, Sealdah, invariably concludes his reports with this request ?

(c) Is it also a fact that punishments are inflicted regardless of the fact that the employee is not guilty merely to maintain the prestige of the Station Superintendent ?

(d) Do Government propose to take any action in the matter ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no information. These are matters of detailed administration within the competence of the Agent, Eastern Bengal Railway, to whom a copy of the question has been sent for information.

WELFARE COMMITTEES ON STATE RAILWAYS.

112. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government please state whether they have laid down any policy in regard to Welfare Committees on State Railways ? If so, will Government please lay a copy of the instructions on the table of the House ?

(b) Is it a fact :

- (i) that there is no uniformity in this matter on the four State Railways ;
- (ii) that the East Indian Railway have Welfare Committees under the direction of the Divisional Superintendents ;
- (iii) that the Eastern Bengal Railway have a Welfare Officer and an Assistant Welfare Officer ;
- (iv) that these Welfare Officers are junior officers selected from the different departments ; and
- (v) that they are not permanently attached to the Welfare Branch ?

(c) Is it a fact that the Agent, Eastern Bengal Railway, has published in his Railway's Gazette No. 16 of 1936 the functions of the Welfare Officer in which he has stated ?

“ The Welfare Officer can only act as a liaison officer between the staff and the District Officer in the first place, and with the Departmental Head if and when the case is referred to him. ... The Welfare Department is there to advise and assist the staff, but it does so as an agent of the District Officer or other immediate superior officer of the employee concerned, and cannot be used as a means of passing over or short-circuiting that Officer. In the circumstances, the Welfare Officer, as a friend of the staff, can be approached direct by any of the staff provided that it is clearly understood that he can only put forward the man's case as his advocate to the District Officer, or to the officer dealing with the case ”.

The Honourable Sir Muhammad Zafrullah Khan : (a) As regards the first part of the question, no special instructions have been issued to Railway Administrations. The latter part does not arise. I would, however, add that available information describing the constitution and working of the various forms of Staff Committees on State-owned Railways will be found in the documents placed in the Library of the House in reply to unstarred question No. 7 asked by Mr. V. V. Giri on the 5th February, 1935.

(b) (i) Yes.

(ii) Yes.

(iii) and (iv). No. The Eastern Bengal Railway have only one Welfare Officer who is a Junior officer.

(v) The Welfare Officer is not permanently attached to the Welfare Branch.

(c) Government have no information.

RACIAL DISCRIMINATION IN THE MECHANICAL DEPARTMENT OF THE
EAST INDIAN RAILWAY.

113. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that racial discrimination is still maintained in the Mechanical Department of the East Indian Railway in regard to the promotions in the higher grades of the non-gazetted service by giving such posts to Europeans and Anglo-Indians irrespective of their qualifications ?

(b) If the answer to part (a) be in the negative, are Government prepared to investigate the claims of those who have recently been promoted in the Heat Treatment Section of the Alambagh Workshops ?

(c) Is it a fact :

- (i) that promotions have been given to staff who have neither received theoretical nor practical training ;
- (ii) that the Agent had decided that staff of the O. and R. section, after the transition period, would be governed by the East Indian Railway scales of pay ; and
- (iii) that exceptions in favour of Europeans and Anglo-Indians have been made by placing them in the O. and R. chargeman's grade ?

(d) Do Government propose to take action in the matter ? If so, what ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no information. The matters referred to are within the competence of the Agent, East Indian Railway, to whom a copy of the question has been sent for information and such action as he may consider necessary.

APPLICABILITY OF THE GOVERNMENT SERVANTS' CONDUCT RULES TO THE
STAFF ON STATE RAILWAYS.

114. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government please state whether Government Servants' Conduct Rules are applicable to both the gazetted and non-gazetted staff on State-managed Railways ?

(b) If the answer to part (a) be in the affirmative, will Government please state whether an exception has been made in the case of the Accounts Department of the East Indian Railway ?

(c) Is it a fact :

- (i) that the Agent has issued Notification No. 544 in his Railway's Gazette No. 18 of 1936 that neither Government servants nor their wives are to engage, either directly or indirectly, in trade or business ;
- (ii) that these instructions do not apply to the Accounts Department ;
- (iii) that the Deputy Chief Accounts Officer, General, posted at Calcutta and an officiating Accounts Officer also stationed at Calcutta are engaged indirectly in motor business at Waterloo Street and at Chowringhee Road respectively ;

(iv) that the Inspector of Accounts at Moradabad is indirectly interested in an Oil and Flour Mill at that station ?

(d) Do Government propose to take any action in the matter and also to instruct the Railway Administration that the Government Servants' Conduct Rules are applicable to both the gazetted and non-gazetted staff and to all departments ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) No.

(c) (i) Yes.

(ii) The instructions apply to the Accounts Department as well as other Departments.

(iii) and (iv). If the Honourable Member will give me the names of the officers referred to by him, I shall consider whether any enquiries are necessary.

(d) The fact that the Government Servants' Conduct Rules are applicable to both the gazetted and non-gazetted staff and to all departments on State-managed Railways is so well-known that Government consider it unnecessary to issue any special instructions.

APPLICABILITY OF THE CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES TO THE STAFF OF THE IMPERIAL LIBRARY.

115. Mr. Amarendra Nath Chattopadhyaya : (a) Will Government please state whether the Civil Services Classification, Control and Appeal Rules are applicable to the clerical and inferior (not menial) staff of the Imperial Library, Calcutta ? If not, what rules govern these men ?

(b) Is it a fact :

- (i) that no procedure is observed before punishment is inflicted on the staff by the Librarian ;
- (ii) that punishments invariably are of a general nature, i.e., all the sorters are fined or made to contribute towards the cost of missing books ;
- (iii) that cases have been detected in which readers have attempted to remove books ;
- (iv) that the general method of punishment operates harshly on low paid staff and is against the rules prescribed by Government ;
- (v) that punishment by the Librarian also takes the form of compelling the staff to work longer hours of duty, i.e., two hours daily for a period of two or three months ; if so, under what rule ; and
- (vi) that recently a peon in receipt of pay of Rs. 14 was fined Rs. 2 for returning a requisition direct to a reader ?

(c) Do Government propose to take action in the matter ? If not, why not ?

Sir Girja Shankar Bajpai : (a) The answer to the first part is yes. The second part does not arise.

(b) (i) and (ii). No.

(b) (iii). Yes.

(b) (iv). No.

(b) (v). Sometimes this is done as a disciplinary measure.

(b) (vi). Yes.

(c) Government do not consider that the Librarian's action calls for intervention.

DEFINITIONS OF "CLERICAL", "INFERIOR" AND "MENIAL" STAFF AS APPLIED TO GOVERNMENT SERVANTS.

116. **Mr. Amarendra Nath Chattopadhyaya** : Will Government in the Home Department please give a definition of "clerical", "inferior", and "menial" staff as applied to Government servants ?

The Honourable Sir Henry Craik : The term "clerical staff" is generally applied to Government servants whose service is "superior" and who are employed in a subordinate capacity on work of a clerical nature. The term "inferior staff" is applied to Government servants, such as record sorters, *daftaries* and peons, whose service has specially been classed as such and in this connection the attention of the Honourable Member is invited to the definition of the expression "inferior service" in rule 2 (13) of the Supplementary Rules made by the Governor General in Council under the Fundamental Rules. A copy of these rules will be found in the Library of the House. Menials are also inferior servants but this term is applied to sweepers, water carriers, etc.

INVIDIOUS TREATMENT IN THE ALLOTMENT OF RESIDENCES TO THE STAFF OF THE LOCOMOTIVE DEPARTMENT AT CALCUTTA.

117. **Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact :

(i) that Government have introduced "State Railways Rent Rules, Buildings and Residences" ;

(ii) that these rules are binding on the Eastern Bengal Railway Administration ;

(iii) that the subletting of rooms by non-gazetted staff to outsiders is not permitted ;

(iv) that it is prevalent in the Locomotive Department at Calcutta ;

(v) that the rules provide that due consideration must be given to those employees who have large families in the matter of accommodation ; and

(vi) that these rules are disregarded by the Locomotive Department at Calcutta ?

(b) Do Government propose to take action in the matter ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) and (ii). Yes.

(iii) The attention of the Honourable Member is invited to Supplementary Rule 314 under which sub-letting of quarters by Government servants is permissible, subject to certain conditions.

(iv) and (v). Not as far as Government are aware.

(v) No.

(b) No. These are matters of detailed administration within the competence of the Agent, Eastern Bengal Railway, to whom a copy of the question has been sent for information and such action as he may consider necessary.

MUSLIM REPRESENTATION IN THE ELECTRICAL AND ACCOUNTS DEPARTMENTS OF THE NORTH WESTERN RAILWAY.

118. **Mr. Nabi Baksh Illahi Baksh Bhutto :** (a) Will the Honourable the Commerce and Railway Member be pleased to state whether the Agent, North Western Railway, has, while fixing the percentages of representation for the minority communities in various branches of the Railway, laid down that 42 per cent. of the new daily-rated and menial appointments should be given to Muslims in Electrical Department, and 27 per cent. in the Accounts Department ?

(b) If so, are Government prepared to ask the Agent to increase the percentage of Muslim representation in these departments to 60 per cent. which is the minimum fixed by the Government of India ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) The percentage fixed for Muslims in the Electrical Branch is 40.3 and in the Accounts Branch 27.5.

(b) No. Orders fixing 60 per cent. of direct recruitment for Muslims apply only to the subordinate staff. As regards the inferior servants and labourers, the orders are that the percentage of each minority community should be maintained as it existed on 31st March, 1935, on the North Western Railway as a whole. The percentage for Muslims varies on each division and in departments but taken together for the whole railway is 61.3 per cent. and this is being maintained.

PROMOTION OF NON-MUSLIMS AS ASSISTANT WIREMEN IN THE KARACHI DIVISION OF THE NORTH WESTERN RAILWAY.

119. **Mr. Nabi Baksh Illahi Baksh Bhutto :** (a) Will the Honourable the Commerce and Railway Member be pleased to state if it is a fact that electric wiremen and assistant wiremen on the North Western Railway used to be recruited direct from outside before the fixation of minimum percentages for the minority communities ?

(b) Are Government aware that the above practice shuts out Muslim entrants inasmuch as the non-Muslims are already in a preponderating majority in the old services, and promoting people from old service means promoting non-Muslims at the expense of the Muslims ?

(c) Are Government aware that in the current year as many as eleven people have been promoted as assistant wiremen in the Karachi Division alone, none of whom is a Muslim ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) and (b). Electrical Wiremen and Assistant Wiremen are classed as labourers and the practice has been and is to fill such vacancies by promotion in all cases where possible and otherwise by direct recruitment.

(c) Six posts, *viz.*, one of Wireman and five of Assistant Wiremen, were created in May, 1936, on the Karachi Division and these have been filled by promoting men from lower categories. Of the men selected one is a Muhammadan, one is a Sikh and four are Hindus.

MUSLIM REPRESENTATION IN THE ELECTRIC SUB-STATION OPENED AT
JACOBABAD.

120. **Mr. Nabi Baksh Illahi Baksh Bhutto :** Will the Honourable Member for Railways and Commerce be pleased to state :

(a) whether a new electric sub-station has been opened at Jacobabad in the Karachi Division ;

(b) whether some new staff has been recruited for the above station ; and

(c) what is the percentage of Muslim representation in the newly recruited staff in each category ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) A new electric sub-station at Jacobabad is under construction, but has not yet been opened.

(b) and (c). Staff spare from Karachi Cantonment and other stations has been posted there for the time being and no new staff has been recruited.

BATHING ARRANGEMENT FOR HINDU AND MUSLIM RAILWAY EMPLOYEES AT
SUKKUR.

121. **Mr. Nabi Baksh Illahi Baksh Bhutto :** (a) Will the Honourable Member for Railways and Commerce be pleased to state whether it is a fact that the North Western Railway has provided a bathing tank for their employees at Sukkur ?

(b) If so, is it a fact that whereas Europeans, Anglo-Indians, Christians and Parsees are allowed indiscriminately the facility of bathing in the said tank, the rest, namely, the Hindu and Muslim railway employees, however high their position may comparatively be, are not allowed the same facility ?

(c) Are Government aware that there is no bathing arrangement for Hindu and Muslim railway employees, at a hot place like Sukkur, whereby they may refresh themselves after a day's toil ?

(d) Are Government prepared to order that hereafter the tank in question be kept open to Hindus and Muslims as well ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

- (a) and (b). A bathing tank attached to the institute for Europeans and Anglo-Indians at Sukkur is open to the members of that institute only, who pay for the water supply and also for the rent of the building.
- (c) The Hindu or the Muslim Railway Employees at Sukkur have not so far represented to the North Western Railway Administration their need in this respect.
- (d) No.

GAZETTED MUSLIM OFFICERS IN THE BIHAR AND ORISSA INCOME-TAX DEPARTMENT.

122. **Mr. Muhammad Nauman :** (a) Will Government be pleased to state if the number of Muslim employees in the gazetted rank of the Income-tax Department, Bihar and Orissa, as given below, is correct ?

Name of post.	Total strength.	No. of Muslims.
1. Commissioner	.. 1	..
2. Assistant Commissioners	.. 3	Nil
3. Income-tax Officers	.. 16	2
	20	2

(b) Is it a fact that the attention of Government was drawn from time to time to the inadequate representation of the Muslims in this Department ?

(c) What action did Government take to remove this grievance of the Muslims ?

(d) What steps, if any, do Government propose to take to grant adequate representation to the Muslims in this Department ?

(e) Is it a fact that the cadre of the Bihar and Orissa Income-tax Department is composed of youngmen, recruited in the course of a few years and as a result there is a serious block in promotion ? If so, have Government ever considered the advisability of evolving some solution to remove the hardship of the staff ?

The Honourable Sir James Grigg : (a) Yes, except that one of the 16 Income-tax Officers is supernumerary.

(b) Yes.

(c) and (d). Since the orders of the Government of India contained in the Home Department Resolution of the 4th July, 1934, refer only to original recruitment, an improvement in the proportion of Muslim officers to the total strength of the service can only take place gradually.

(e) It is a fact that most of the present Income-tax Officers in Bihar and Orissa are comparatively young, but none of them has yet reached the maximum of the scale. The question of a block in promotion does not therefore arise.

DETERMINATION OF SENIORITY AMONG THE STAFF OF THE BIHAR AND ORISSA
INCOME-TAX DEPARTMENT.

123. **Mr. Muhammad Nauman :** (a) Will Government be pleased to state the principle on which the seniority and juniority is determined among the staff of the Income-tax Department, Bihar and Orissa ?

(b) Is it a fact that as the cadre now stands, no Muslim can ever become a Commissioner or even Assistant Commissioner ? If so, what steps do Government propose to take to remove this grievance of the Muslims ?

The Honourable Sir James Grigg : (a) There are several factors which determine the seniority of officers in a cadre but generally the position of an officer is fixed by the date of his confirmation in a particular grade. A consideration of communal percentages is not one of the factors taken into account.

(b) The present Muslim Income-tax Officers in Bihar and Orissa have still a long time to serve and it is premature to say whether or not any of them will get an opportunity to become Commissioner or Assistant Commissioner. Moreover, higher appointments are filled by selection and seniority is only one of the factors that are taken into consideration in filling selection posts. The second part of the question does not therefore arise.

NON-INTERFERENCE OF GOVERNMENT WITH THE COMMISSIONERS OF INCOME-
TAX IN THE MATTER OF APPOINTMENTS, PROMOTIONS AND DISCIPLINE.

124. **Mr. Muhammad Nauman :** (a) Is it a fact that Government seldom interfere with the Commissioners of Income-tax in the matter of appointments, promotions and discipline ?

(b) Do Government propose to avail themselves of the advice of the Public Service Commission in all matters of appointment and promotion in the Income-tax Department ?

The Honourable Sir James Grigg : (a) Certain clearly defined powers have been delegated to the Commissioners of Income-tax in respect of certain classes of establishment in the matter of appointments, promotion and discipline and there is no reason why there should be any interference with those powers. An appeal lies to the Central Board of Revenue against the decision of the Commissioners.

(b) The Government consult the Public Service Commission in making permanent appointments of Assistant Commissioners but do not consider it practicable that they should be consulted in regard to other appointments.

APPOINTMENT OF A MUSLIM AS A COMMISSIONER OF INCOME-TAX IN BIHAR
AND ORISSA.

125. **Mr. Muhammad Nauman :** (a) Is it a fact that the present Commissioner of Income-tax, Bihar and Orissa, is shortly to retire ? If so, do Government propose to consider the advisability of appointing a Muslim Commissioner in Bihar ?

(b) Is it not a fact that senior Muslim officers are available in other provinces to fill the above post ?

(c) Do Government propose to grant extension of service to the present Commissioner of Income-tax? If so, why?

The Honourable Sir James Grigg: (a) No. The second part does not arise.

(b) Does not arise.

(c) The question is premature as the present Commissioner is not due to retire for about seven years.

CLERICAL AND STORE-KEEPING APPOINTMENTS IN THE ROYAL INDIAN ARMY SERVICE CORPS.

126. Pandit Sri Krishna Dutta Paliwal: (a) Is it a fact that a certain percentage of clerical and store-keeping appointments in the Royal Indian Army Service Corps is reserved for the sons of retired clerks and store-keepers of the Royal Indian Army Service Corps?

(b) Subject to medical fitness and agreement to abide by all the conditions of military service, are Government prepared to reserve as a special case about ten per cent. of Indian Officer and Indian Warrant Officer appointments for the highly educated graduate sons of Royal Indian Army Service Corps head clerks and storekeepers fulfilling the following conditions?

- (i) rendered good and excellent services in India and were always given excellent and exemplary characters throughout their long service of 25 to 30 years;
- (ii) rendered meritorious services in the Great War of 1914—18 on field service in France, Belgium, Mesopotamia, Egypt, etc.;
- (iii) again rendered meritorious services in the prosecution of the Great War, 1914—18, in India after their return from field service overseas; and
- (iv) disabled on account of diseases or injury and assessed 75 to 100 per cent. disability due to field services.

(c) If the grandfathers and great-grandfathers of such graduate applicants had also rendered meritorious services to the Government in the Great Mutiny of 1857, Burma Annexation and North-West Frontier, etc., etc., will it be a further ground, along with those mentioned above and the university degree, for a special and preferential consideration?

Mr. G. R. F. Tottenham: (a) Ten per cent. of the vacancies occurring in the respective establishments of clerks, store-keepers and checkers are reserved for sons of those categories who are serving or have served in the Corps in a permanent capacity.

(b) and (c). As special consideration is already shown to candidates' family qualifications, Government are not prepared to change the existing system of recruitment.

DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

127. Pandit Sri Krishna Dutta Paliwal: (a) With reference to the reply given in this House to parts (a) and (b) of my starred question No. 376 on the 16th September, 1935, will Government please state the

total percentage of disability that will be taken in assessing the disability pension of a civil officer or subordinate who is assessed 60 per cent. disability on account of Field Service and 40 per cent. disability on account of Post War Service ?

(b) Is it correct that the wife and minor children of a civil officer or subordinate retiring on a pay of Rs. 200 per month and over on account of diseases contracted on Field Service are eligible for family pensions agreeably to paragraphs 740 and 741-A, Civil Service Regulations ?

(c) Will Government please state the weekly rate of disability family pensions admissible to the wife and three minor sons of a civil officer retiring with the relative rank of a sub-conductor and assessed 60 per cent. disability on account of diseases contracted on Field Service ?

(d) Is it correct that disability pension claims of those retiring on a pay of Rs. 200 per month or more are payable in sterling and they are to be converted at the rate of one shilling four pence to the rupee if the pensioner was in Government service on 1st February, 1921 in the spirit of paragraph 24, Pension Regulations, India ?

(e) Is it a fact that, following their final reply to question No. 331 of 2nd March, 1934, Government called for marriage and birth certificates from the Collectors or Deputy Commissioners of Districts for the admission to disability pension of the wives and children of the individuals involved in the Government's reply and that necessary certificates were furnished to the pension authorities by the civil officers concerned ?

(f) Is it correct that the admissibility of disability pension to those who contracted diseases on Field Service during the Great War of 1914—18 and eventually retired on Rs. 200 per month and over in 1928—30 on account of the same diseases has been accepted by Government in their replies to the questions noted below in the Assembly ?

(1) Government reply to question No. 592-A and B of 4th September, 1933,

(2) Government reply to question No. 1182-A of 27th November, 1933,

(3) Government reply to question No. 331 of 2nd March, 1934,

(4) Government reply to unstarred question No. 248, dated the 9th March, 1936.

(g) Will Government be pleased to state why the claims involved in Government's final reply to question No. 331 of the 2nd March, 1934, have not been assessed and adjusted up to date ?

Mr. G. R. F. Tottenham : I would refer the Honourable Member to the reply given to Seth Haji Abdoola Haroon's unstarred questions Nos. 25, 26 and 27 on the 15th September, 1936.

ALLEGED HARASSMENT OF LOCAL BALUCHISTAN EMPLOYEES BY THEIR OFFICERS.

128. **Seth Haji Abdoola Haroon :** (a) Are Government aware that local Baluchistan employees are being harassed by their officers, who are almost non-mulkis, and that the former are restrained from

subscribing to any of their mulki newspapers and if subscribed, they are asked to give explanations in writing ?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state why the mulkis are debarred from patronising their local organs ? Is it a fact that non-mulkis are enjoying that privilege of subscribing to newspapers according to their own discretion ?

Sir Aubrey Metcalfe : (a) The suggestion made is, so far as Government are aware, incorrect.

(b) Does not arise.

LOCAL PERSONS EMPLOYED IN BALUCHISTAN DUE TO EARTHQUAKE.

129. **Seth Haji Abdoola Haroon** : Will Government be pleased to state how many local persons have been employed in the superior and inferior vacancies which occurred recently at Baluchistan due to earthquake ?

Sir Aubrey Metcalfe : The information is being obtained from the Local Administration and will be laid on the table in due course.

EMPLOYMENT OF LOCAL PERSONS IN THE INTERIOR SERVICES IN BALUCHISTAN.

130. **Seth Haji Abdoola Haroon** : Will Government be pleased to state whether it is a fact that Colonel Parson, the present Agent to the Governor General in Baluchistan, has issued a circular to the effect that all inferior vacancies should be filled in by mulkis only ? If so, are Government prepared to see that the circular is strictly adhered to and enforced.

Sir Aubrey Metcalfe : A circular has been issued to the effect that local inhabitants should be given preference in appointments to certain inferior grade posts, where higher education is not a necessary qualification. Government are confident that the Agent to the Governor General will see that his orders are carried out.

EMPLOYMENT OF BALUCHIS IN SIND IN SUPERIOR SERVICES IN CASE SUITABLE BALUCHISTANIS ARE NOT AVAILABLE.

131. **Seth Haji Abdoola Haroon** : Are Government prepared to instruct the authorities at Baluchistan that if, in case of superior vacancies, no suitable Baluchistani is available, these vacancies may be filled from among the Baluchis of Sind where suitable candidates of Baluch community are available ?

Sir Aubrey Metcalfe : There is no bar to Baluchis from Sind being recruited in the Civil Service, should it not be possible to obtain the requisite quota locally and provided they have the requisite educational qualifications and are fully conversant with Urdu, which is the Court language of Baluchistan and which is commonly used in other official correspondence.

REPRESENTATION OF MUSLIM SINDHIS AND BALUCHISTANIS IN RAILWAY SERVICES.

132. **Seth Haji Abdoola Haroon** : (a) Are Government aware that representation of Sindhi and Baluchistani Muhammadans in Sindh and Baluchistan railway services, respectively, is equal to zero ?

(b) If the answer to part (a) above be in the affirmative, are Government prepared to see that steps are immediately taken to give adequate representation to Sindhis and Baluchistanis in railway services ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have no information.

(b) I would invite the Honourable Member's attention to Mr. P. R. Rau's reply to Sardar Sant Singh's starred question No. 811 asked in this House on the 22nd August, 1934.

RECRUITMENT IN THE BALUCHISTAN POLICE FORCE.

133. Seth Haji Abdoola Haroon : (a) Are Government aware that the Baluchistan Police force consist of non-mulkis ?

(b) If the answer to part (a) be in the affirmative, are Government prepared to see that steps are immediately taken to stop non-mulki recruitment in the Baluchistan Police forces ?

Sir Aubrey Metcalfe : (a) No. The Baluchistan Police Force contains local inhabitants as well as inhabitants of other Provinces.

(b) It has always been the policy of Government to encourage the recruitment of the indigenous inhabitants of Baluchistan in the local Police, due regard being had to the qualifications of candidates and the efficiency of the Police Force.

EMPLOYMENT OF MUSLIMS IN THE SUPERIOR SERVICES OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

134. Haji Chaudhury Muhammad Ismail Khan : (a) Is it a fact that the percentage of Indianisation is highest in the superior grade of Engineering Department of the Bombay, Baroda and Central India Railway ?

(b) What is the actual percentage of the Indians in the superior service of this Department ?

(c) Is it a fact that in spite of such a high percentage of Indianisation in the superior service of the Engineering Department of the Bombay, Baroda and Central India Railway, there is not a single Muslim in the superior grade of this Department ?

(d) Is it a fact that from time to time several Muslims with high engineering qualifications, including foreign education, have applied for a post in the superior service of the Engineering Department without any success ?

(e) How many new appointments and promotions to the superior service of the Engineering Department have been made during the last three years, and to what communities do the entrants belong ?

(f) Will Government be pleased to state the reasons why Muslims are so obstinately left out from the superior engineering service of the railway, although their percentage is *nil* ?

(g) Are Government prepared to take such action as they deem fit so as to ensure proper representation of Muslims in the superior service of the Bombay, Baroda and Central India Railway in general and

in the Engineering Department in particular, and arrange in future to give all the posts to the Muslims until such time as their proper percentage is attained ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

- (a) Yes.
- (b) 39 per cent.
- (c) Yes.
- (d) With the exception of one appointment no direct recruitment has been made in the last three years ; the staff re-appointed being retrenched hands.
- (e) I place a statement on the table of the House giving the required information.
- (f) I would invite the Honourable Member's attention to my reply to part (d) of the question.
- (g) As regards the first part, the Government of India's orders fixing 25 per cent. of vacancies in the superior services in future direct recruitment for Muslims, provided qualified candidates are available, are being carried out on the Bombay, Baroda and Central India Railway. With regard to the latter part, Government regret they are prepared to take action as suggested.

Statement.

Engineering proper—

Direct appointment from
retrenched staff.

Promoted subordinates.

Five Hindus.

Two Hindus.

Engineering Signals—

One Anglo-Indian*.

One European.

Two Hindus.

*Post was advertised and the officer selected was the only one who possessed the necessary qualifications and experience.

REVISED EDITION OF THE MOORE'S FAMILY MEDICINE.

135. **Mr. C. N. Muthuranga Mudaliar :** (a) With reference to the reply to unstarred question No. 83, dated the 16th September, 1933, regarding the revised edition of the *Moore's Family Medicine*, will Government please state when they propose to bring out a revised edition of it ?

(b) Are Government aware that there is a great demand for its revised edition, especially by the low-paid Government servants ?

(c) Do Government propose to consider the desirability of bringing out a revised edition of this important and useful book at an early date, and take the advantage of the presence of Major-General Sir C. A. Sprawson at the headquarters of the Government of India ? If not, why not ?

Sir Girja Shankar Bajpai : (a), (b) and (c). Moore's Manual of Family Medicine and Hygiene for India has been revised by Major General Sir Cuthbert Sprawson and Captain R. D. Alexander, I.M.S. The work has been completed and printed copies of the new edition will be ready by the end of next month.

REPRESENTATION OF INDIVIDUAL CASES BY SERVICE UNIONS AND ASSOCIATIONS.

136. **Sardar Sant Singh :** (a) Is it a fact that service unions and associations recognised by Government are not allowed to represent individual cases of their members ?

(b) Has the attention of Government been drawn to an article on pages 111 and 112 of the *Telegraph Review* for April, 1934, under the caption "Individual cases and Union's right of Representing them", and are Government aware that recognised service associations in Great Britain are allowed to take up and represent individual grievances of their members ?

(c) Do Government propose to consider the matter and allow the recognised service unions to represent the individual grievances of their members ? If not, why not ?

The Honourable Sir Frank Noyce : (a) The rule is that no representation or deputation will be received from a recognised service union or association except in connection with a matter which is, or raises questions which are, of common interest to the class of employees represented by the union or association.

(b) Government have seen the article. They are aware that certain recognised service unions in Great Britain are permitted to represent individual grievances in serious or exceptional cases.

(c) Government have considered the matter and they adhere to the view that recognised service unions cannot be permitted to represent individual grievances of their members. They are of opinion that the appeal and memorial rules afford full and adequate opportunities for the individual members to represent their grievances.

NON-PENSIONABLE APPOINTMENTS IN THE TELEGRAPH DEPARTMENT.

137. **Sardar Sant Singh :** (a) Will Government be pleased to state the number of appointments that are still non-pensionable in the Telegraph Department under each of the following categories :

- (i) Inspectors of peons,
- (ii) time-keepers,
- (iii) mistris,
- (iv) mechanics,
- (v) Conservancy Inspectors, and
- (vi) distributors of Government Press.

(b) Is it a fact that the number of remaining non-pensionable appointments in the Telegraph Department is much less than that of pensionable status ?

(c) Are Government prepared to grant pensionable status to the remaining non-pensionable posts referred to in part (a) above ?

The Honourable Sir Frank Noyce : (a) A statement containing the required information in respect of Inspectors of Peons, Time-keepers and Conservancy Inspectors is given below. As regards the other categories of posts, the information is being collected and will be laid on the table in due course.

(b) The number is only slightly less.

(c) The matter is under consideration.

Statement showing the number of Non-Pensionable Posts in the Grades of Inspectors of Peons, Time-keepers and Conservancy Inspectors.

Inspectors of Peons	..	..	..	..	7
Time-keepers	..	..	..	..	15
Conservancy Inspectors	..	..	..	..	12

HOURS OF DUTY OF TELEGRAPHISTS.

138. **Sardar Sant Singh :** (a) Is it a fact that a committee was appointed by Government in 1908 to report on the hours of duty of telegraphists in the Indian Telegraph Department ?

(b) Will Government be pleased to state if the recommendations of the said committee were accepted by them ?

(c) Is it a fact that this committee recommended that each signaller would have to perform night duty about two weeks in nine ?

(d) If the replies to parts (a), (b) and (c) above be in the affirmative, will Government be pleased to state if the recommendations regarding night duty are followed in regulating night duties of the signalling staff and if the manual rules on the subject have been amended accordingly ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). Yes.

(c) No.

(d) Does not arise.

CONCESSION IN TELEGRAPH RATES ALLOWED TO RAILWAYS, PRESS AND INDIAN STATES.

139. **Sardar Sant Singh :** (a) Is it not a fact that the Telegraph Branch of the Posts and Telegraphs Department is being run at a loss ?

(b) Is it not a fact that a concession in the rate of telegrams is allowed to Railways, Press and Indian States, etc. ?

(c) If the replies to parts (a) and (b) be in the affirmative, do Government propose to withdraw the concessional rates granted to those parties in an attempt to increase the revenue of the Telegraph Branch ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) Only to the Press but not to Railways and Indian States.

(c) Press rates have been increased from the 1st May, 1935. No further increase in these rates is considered to be possible without interfering seriously with the rapid dissemination of news.

RECOVERY OF THE COST OF ERECTION AND MAINTENANCE OF TELEGRAPH LINES USED BY RAILWAYS AND INDIAN STATES.

140. **Sardar Sant Singh** : With reference to the reply given to question No. 605, dated the 19th February, 1936, will Government be pleased to state if the cost of erection and maintenance of telegraph lines used by railways and Indian States is recovered from the railways and Indian States ? If not, why not ?

The Honourable Sir Frank Noyce : Telegraph lines which are supplied by Government for the use of Railways and Indian States are erected and maintained at the cost of the Indian Posts and Telegraphs Department which charges the users an economic rental.

REPORT OF THE POSTAL ENQUIRY COMMITTEE.

141. **Sardar Sant Singh** : (a) Will Government be pleased to state when the Postal Enquiry Committee submitted their report and when the orders of the Government thereon may be expected ?

(b) Will Government be pleased to state the reason for the delay in issuing orders on the said report ?

The Honourable Sir Frank Noyce : (a) and (b). The Committee submitted their Report on the 2nd January, 1935, and Government have passed orders on all the recommendations made in it.

GRANT OF HIGHER INITIAL RATES OF PAY TO GRADUATE AND INTERMEDIATE CLERKS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

142. **Sardar Sant Singh** : (a) Is it a fact that higher starting salary was granted to graduate and intermediate clerks in the Posts and Telegraphs Department and subsequently withdrawn ?

(b) Is it a fact that Government said in reply to part (g) (i) of starred question No. 1289, dated the 17th March, 1936 by Khan Sahib Nawab Siddique Ali Khan, that this concession was allowed in the interests of departmental efficiency in order that men of superior education should be available for promotion to higher posts at an earlier age than men with no such special qualification ?

(c) If the reply to part (b) be in the affirmative, will Government be pleased to state why the concession was stopped, and whether they are prepared to reconsider the matter and grant higher initial rates of pay to graduate and intermediate clerks of the Posts and Telegraphs Department ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) Yes.

(c) The concession was abolished as it was not considered necessary in order to attract graduates and intermediates to the service. Government do not propose to reintroduce it as it would involve avoidable expenditure.

RECOVERY OF OVERDRAWN LEAVE ALLOWANCES FROM THE INFERIOR STAFF
OF THE CENTRAL TELEGRAPHS OFFICE, CALCUTTA.

143. **Sardar Sant Singh :** (a) With reference to the reply given to part (a) of question No. 599, dated the 19th February, 1936, will Government be pleased to state if it is a fact that no option was granted to the inferior staff of the Central Telegraph Office, Calcutta, to remain either under Civil Service Regulations or Fundamental Rules in the matter of their leave ?

(b) Is it a fact that no information was given to the inferior staff, while bringing them twice under the Civil Service Regulations and thereafter under the Fundamental Rules ?

(c) If the reply to parts (a) and (b) be in the affirmative, why did Government recover the alleged overdrawn leave allowance from the inferior servants without granting them the option or giving them information in the matter, and are they prepared to order refund of the amount so recovered ? If not, why not ?

The Honourable Sir Frank Noyce : (a), (b) and (c). The Honourable Member is referred to the reply given to parts (c), (d) and (e) of the question referred to by him in part (a) of his question.

ROTATION OF DUTIES OF CLERKS IN THE TELEGRAPH OFFICES.

144. **Sardar Sant Singh :** (a) Is it a fact that some clerks in Telegraph Offices have to perform fixed regular day duties, while others are employed on irregular and night duties ?

(b) Is it a fact that those who are employed on regular day duties get the privileges of all holidays (Government, Bank and local holidays), including Sundays ?

(c) Is it a fact that those who are employed on irregular and night duties get no holidays, not even Sundays ?

(d) Is it a fact that, on representations from the staff, the Director General issued orders in 1933, introducing rotation of duties between these two classes of workers to give respite to men from irregular and night duties and also to increase efficiency and experience of staff ? If so, will Government be pleased to place a copy of the said order on the table ?

(e) If the reply to part (d) be in the affirmative, will Government be pleased to state whether full effect to the order has yet been given in the Madras, Rangoon, Bombay, New Delhi and Simla Telegraph Offices ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Yes, but existing orders prescribe rotation of duties amongst the clerks in telegraph offices so that the same set of clerks do not always get irregular and night duties.

(b) Clerks employed on regular day duties outside the signal room are granted all holidays including Sundays on which telegraph offices are closed.

(c) Clerks employed on irregular and night duties are required to perform certain periods of duty on all telegraph holidays.

(d) The answer to the first part of the question is in the affirmative. As regards the second part, Government do not propose to lay on the table of the House copies of departmental orders issued on the subject.

(e) Government are satisfied that effect is being given to the orders as rapidly as is possible consistently with the efficient working of the Department. The last part of the question does not therefore arise.

REDUCTION IN THE TASK-WORK EARNINGS OF FOOT PEONS OF THE MADRAS CENTRAL TELEGRAPH OFFICE.

145. **Sardar Sant Singh :** (a) Are Government aware that the task-work earnings of foot peons of the Madras Central Telegraph Office were reduced with effect from the 1st November, 1935 ?

(b) Is it a fact that no notice or information was given to the peons beforehand and they came to know of the reduction of their earnings when they drew their pay for November, 1935 in December, 1935 ?

(c) Are Government prepared to enquire about the reason for the said reduction and restore their earnings ?

The Honourable Sir Frank Noyce : (a) and (b). Yes.

(c) The task-work earnings of foot peons are required to be maintained at a level which does not raise their total emoluments beyond the average wages paid to inferior servants in the locality in which they serve. When such an increase occurs, a reduction in the rate per message becomes obligatory and is carried out by the Postmaster-General. The reduction in the instance given by the Honourable Member was the result of the application of one of the recognised conditions of service. Government see no grounds for a restoration of the rates to their former figure but they do not regard the general system as satisfactory and are examining the possibility of altering it.

PROVISION FOR ADEQUATE MEAL RELIEF TO CERTAIN TELEGRAPH STAFF.

146. **Sardar Sant Singh :** (a) Is it a fact that according to existing rules the telegraph staff employed on 19-1 hour duty cannot claim meal relief and in consequence they have to go without meals on this duty ?

(b) If the reply to part (a) be in the affirmative, are Government prepared to amend the rules and make provision for adequate meal relief to the staff on 19-1 hour duty and thereby protect the staff from a real hardship ?

(c) Are Government aware that the staff of the Madras Central Telegraph Office are being employed on 19-1 hour duty ?

(d) Are Government prepared to make an enquiry into the matter referred to in part (c) and take steps to protect the staff affected from the hardship ?

The Honourable Sir Frank Noyce : (a) The answer to the first part of the question is in the affirmative. As regards the second part, there is no reason why the staff should forego a meal if they do not elect to have one before coming on duty. Short periods of relief are always obtainable and can be prolonged if traffic conditions permit.

(b) Does not arise.

(c) Government are aware that the term of duty referred to is in force in the Madras Central Telegraph Office.

(d) Government understand that the Postmaster-General is examining certain representations made by the staff for the abolition of this term of duty. Government do not propose to make any enquiry as the Postmaster-General is fully competent to deal with the matter.

RECREATION CLUB OF THE CENTRAL TELEGRAPH OFFICE, CALCUTTA.

147. **Sardar Sant Singh :** (a) Has the attention of Government been drawn to the letter published at page 197 of August, 1936 issue of the *Telegraph Review*, under the caption "Dances in the Central Telegraph Office, Calcutta" ?

(b) Will Government be pleased to state the rate charged by the Recreation Club of the Central Telegraph Office, Calcutta, from outsiders for these dances ?

(c) What is the total amount of wine sold on an average in the bar per month ?

(d) Does the Recreation Club hold any licence for sale of wines ?

(e) Does the Recreation Club pay any rent to Government for their dancing hall ? If so, what is the rate per month ?

(f) Is it a fact that the dormitory of the staff is attached to the dancing room in the Central Telegraph Office, Calcutta ?

(g) Is it a fact that the staff sleep in the dormitory before their duty commences at 2 o'clock at night, and disturbances are likely to be caused by music and dancing in an adjacent hall ?

(h) Is it a fact that these amusements are likely to distract the attention of the staff on duty in the instrument room ?

(i) Will Government be pleased to state the number of female staff employed on irregular duties in the Traffic and Telephone Branches of the Central Telegraph Office, Calcutta ?

(j) Is there any other Department in which such dances are allowed in Government office premises ?

(k) Is it a fact that the Dalhousie Institute in Dalhousie Square, Calcutta, holds dances on payment and that this hall is not far off from the Government Telegraph Building ?

(l) Is it a fact that the Young Men's Christian Association and many hotels in Calcutta have arrangements for dances and they may be utilised by any one on payment ?

(m) Are Government prepared to stop these dances in the Central Telegraph Office, Calcutta, early ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Government have seen the article.

(b) to (m). Government have no information and do not propose to call for it. The matters referred to are all of a nature with which the

Director-General is fully competent to deal and a copy of this question and answer has been sent to him for such action as he may consider suitable.

EMPLOYMENT OF TELEGRAPHISTS FOR WORKING ON PIE-MONEY LINES.

148. **Sardar Sant Singh :** (a) Is it a fact that telegraphists cannot be compelled to score on pie-money lines after they have given the required standard of outturn ?

(b) Is it a fact that according to existing procedure, volunteers are invited for working on pie-money lines and generally younger telegraphists, having greater working capacity, volunteer and are employed on these lines ?

The Honourable Sir Frank Noyce : (a) The fact is not as stated by the Honourable Member. No telegraphist can demand to be excused from work after having disposed of messages up to the limit of the standard outturn during any period of duty and disciplinary measures would be taken against any telegraphist who declined to dispose of traffic with all possible expedition on the excuse that he had done a standard outturn.

(b) No specific call for volunteers is made and it is open to all telegraphists irrespective of age to work on pie-money lines. It is a fact, however, that junior telegraphists preponderate among those who work on such lines but the seniors as such are not excluded either by rule or custom.

DUTY HOURS OF TELEPHONE OPERATORS.

149. **Sardar Sant Singh :** (a) Is it a fact that the Telephone Operators like the Telegraphists are required to do 50 hours' duty in a week ?

(b) Is it a fact that the Telegraphists are required to do night duties for six hours and evening duty for seven hours and this six or seven hours' duty is considered as equivalent to eight hours' duty according to rules for the purpose of calculating fifty hours' duty during a week ?

(c) If the replies to parts (a) and (b) be in the affirmative, are Government prepared to extend the concessions referred to in part (b) to Telephone Operators also ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). Yes.

(c) No ; the nature of duties of the signalling staff of the Telegraph Traffic Branch differ from those of the Telephone Operators. Government are satisfied that there is no case for exactly similar treatment in respect of hours of duty of the signalling staff and the Telephone Operators.

SUPERVISION OF SIGNAL ROOM CLERKS IN TELEGRAPH OFFICES.

150. **Sardar Sant Singh :** (a) Is it a fact that the Telegraph Establishment Enquiry Committee recommended for the supervision of signal-room clerks by selection grade clerks in telegraph offices and that this recommendation was accepted by Government, with effect from 18th December, 1935 ?

(b) Has the attention of Government been drawn to the article appearing at pages 134 and 135 of the *Telegraph Review* for June, 1936, under the caption "Replacement of Telegraph Masters by Selection Grade Clerks" ?

(c) If the replies to parts (a) and (b) be in the affirmative, will Government be pleased to state the reason why the replacement of Telegraph Masters by selection grade clerks has not yet been effected in Bombay and Rangoon Telegraph Offices ?

(d) Is it a fact that some vacancies have of late occurred in the cadre of Telegraph Masters due to retirement and promotion of senior Telegraph Masters ?

(e) If so, do Government propose to appoint selection grade clerks in those vacancies in the Bombay and Rangoon Offices ?

The Honourable Sir Frank Noyce : (a) Yes, but subject to the occurrence of clear vacancies in the Telegraph Masters' cadre.

(b) Government have now seen the article.

(c) The replacement of Telegraph Masters by selection grade clerks will be effected gradually, as vacancies occur among Telegraph Masters and as suitable clerks become available.

(d) and (e). Government have no information and do not propose to call for it. The matter referred to is one with which the Director-General is competent to deal and a copy of the question is being sent to him for such action as he may consider suitable.

DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

151. **Pandit Sri Krishna Datta Paliwal :** (a) Will Government be pleased to state if they have given effect to their answer to starred question No. 336 (b) of 12th February, 1936, in which they said that the Secretary of State had agreed to the re-continuance of pension where a widow marries her deceased husband's brother and that orders will shortly be issued on the subject ? If so, will Government please lay a copy thereof on the table ?

(b) Are Government aware that there has been much hardship in the cases of men who had served all their life under the rules that their widow would get a life pension unaffected by a "karewa" and whose agreement was violated by the introduction of fresh rules on 6th August, 1918 ?

(c) Where an individual nominated his widow as heir to the family pension under the old rules in force prior to 6th August, 1918, in the hope that her re-marriage or "karewa" would not affect the pension, will Government please state if his family is entitled to nominate any other heir, such as son or father or mother, under the new rules which imposed the new condition of withholding the family pension on "karewa" or re-marriage ? If so, will Government please state how they proceeded to nominate the heir in the cases where the children were minors and the deceased sepoy could not avail of the right of nominating the heir, being in trenches or in hospital ?

(d) Is it a fact that the new rules imposed two conditions on the families of the Indian ranks, namely, that (i) pensions to the widows would cease on their entering a "karewa" or "re-marriage", and (ii) the right of the nomination as heir to pension would be exercised by Government where the same could not be made by the deceased sepoy?

(e) Are Government aware that under the old rules, the son was the highest amongst the heirs and that under the new rules the widow was made the highest and Government nominated the widow as heir to the family pension in preference to the son, mother or father, and that this entailed hardship on the members of the family and the widow's nomination was not in the interest thereof?

(f) Are Government prepared to re-consider such cases in the spirit of their resolution No. 4863, dated the 4th December, 1891, as regards deferring the introduction of the change after its publication or to give to the officers affected the right of choosing whether they shall come under the operation of the old or the new rules? If not, why not?

Mr. G. R. F. Tottenham : (a) Orders giving effect to the re-continuance of family pension to the classes referred to will issue shortly and they will cover past cases.

(b) Before the old rule was altered the views of the Army were obtained and it was found that the consensus of opinion was in favour of the change. Government are not aware of any cases of hardship.

(c) At the time of enlistment, every soldier nominates for family pension any one of the following members of his family :

- (1) Wife—lawfully married by valid ceremony.
- (2) Father.
- (3) Mother.
- (4) Son, actual and legitimate.
- (5) Daughter, actual and legitimate.

If the widow is nominated but becomes disqualified by re-marrying a person other than her deceased husband's brother, the pension may be continued to the next eligible heir if the financial circumstances of the family justify it.

(d) (i) Yes.

(ii) Where a nomination could not be made by the deceased soldier, the family pension is admissible to one of the surviving relatives highest in the list referred to in part (c) above, or if that relative is disqualified to the one next below.

(e) As explained above, it is not the Government but the soldier himself who nominates his heir to the family pension.

(f) Does not arise in view of the position explained above.

DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

152. **Pandit Sri Krishna Dutta Paliwal :** (a) Will Government be pleased to state if it is a fact that the Army Regulations admit pension from the date of death, or from the date of the application for pension,

and are Government aware that in the case of Indian sepoy and families, it takes over five years and in some cases even seven years and that the pension is allowed from the date of their last letter and all the accumulated pension is either disallowed or is given in instalments of Rs. 4 per mensem ?

(b) Are Government aware that during this long time of investigation, the claimant is summoned to Tehsil or Thana for more than 20 times with witnesses who have to be fed and carried in conveyance and the disallowance of the pension for the period of investigation is very hard ?

(c) Are Government aware that in the villages the rate of interest is very high and where the earner died and the family is in semi-destitute state (as is the condition for the transfer of pension under their Regulations) the families secure loans on very very high interest ?

(d) Have Government considered an additional pension of Rs. 4 per mensem, *vice* accumulated sums of pension amounting Rs. 800 as sufficient compensation for (i) the destitute period of correspondence over ten years, as in (a) above, (ii) for difficulties of maintenance and high interests paid during the period of non-grant and (iii) for the cost of investigation, and correspondence ?

(e) Was it the intention, in accepting Recommendation No. VII of the War Pensions Committee, that accumulated pensions amounting to Rs. 800 and over would be paid in instalments of Rs. 4 per mensem ?

(f) Is it a fact that Government have already earned an interest on the accumulated pension and by non-disbursement thereof they would be earning interest for ever, and are Government aware that the families whose dues these accumulated sums of pensions are, have been and will be deprived from utilizing the sum for their benefit ?

(g) Is it a fact that for British ranks and civil officials the principles of commutation of part pension is recognized ?

Mr. G. R. F. Tottenham : (a) to (f). A service pension is payable from the date following that of discharge.

A family pension is ordinarily payable from the date following that of the casualty which creates the claim.

Arrears of pension in respect of belated claims are granted in accordance with the rule in paragraph 44-B, Financial Regulations for the Army in India, Part I.

The implication that it generally takes five to seven years to dispose of a representation is totally incorrect. Each belated claim to arrears of pension is considered promptly and sympathetically on its merits. In cases where no pension is admissible under ordinary rules and one is granted, as a special case and purely as an act of grace, the grant takes effect from the date of Government orders or any other date the Government of India may determine in view of the circumstances of the case.

Accumulated arrears of pensions are paid in the form of an additional monthly pension in exceptional cases. Such payments are not always fixed at Rs. 4 per mensem, but have in some cases been even double the above amount. This method of payment is adopted when Government

apprehend that the money, when it is sanctioned, would fall, in part or in part, into unauthorized hands or where the money may not be utilised for the sole benefit of the recipient.

(g) Yes. So far as British personnel are concerned, only regular officers of the Indian Army, departmental and warrant officers of Indian Army Departments and soldier mechanics employed in the Indian Ordnance Department have the right of commuting their pensions.

RESTRICTION OF THE POWERS OF SUPERINTENDENTS OF POST OFFICES IN CERTAIN MATTERS.

153. **Mr. B. B. Varma :** Will Government please state whether there is a rule in the postal department, restricting the power of the Divisional Superintendent of Post Offices in matters of transfer and punishment of officials under the power and control of appointment of second class Head Postmasters ?

The Honourable Sir Frank Noyce : Yes, but in respect of punishments only and not in respect of transfers.

RETRENCHMENT IN THE RONGPUR POSTAL DIVISION IN DISREGARD OF THE GOVERNMENT ORDERS.

154. **Mr. B. B. Varma :** (a) Will Government please state whether it is a fact that the present Superintendent of Post Offices, Jalpaiguri Division, was in charge of Rongpur Postal Division during the period the Government order of retrenchment was in force ?

(b) Is it a fact that postal officials were retrenched in the Rongpur Postal Division in disregard of the Government order on the subject during the regime of the present Superintendent of Post Offices, Jalpaiguri Division in the Rongpur Division ? If so, was the position remedied by the Head of the Circle ? What steps were taken against the officer responsible ?

The Honourable Sir Frank Noyce : (a) Yes, for about 2½ months.

(b) Government have no information and do not propose to call for it as it is open to the officials concerned to represent in the usual manner.

MOTIONS FOR ADJOURNMENT.

CANCELLATION OF THE PRESS GALLERY PASS OF THE CORRESPONDENT OF THE *Amrita Bazar Patrika*.

Mr. President (The Honourable Sir Abdur Rahim) : I have
12 NOON. received notice of an adjournment motion from the
Honourable Member, Mr. Sri Krishna Dutta Paliwal. It
is to this effect :

“ I beg leave to make a motion for the adjournment of the business of the Assembly for the purpose of discussing a definite matter of present public importance, namely, ‘ further restriction on the liberty of the Press as a result of the cancellation of the Press Gallery Pass of the correspondent of *Amrita Bazar Patrika* on account of certain offending notes and leading articles of that paper with which the correspondent had nothing to do ’.”

Has the Honourable Member got the order ? Whose order was it ?
Will the Honourable Member read out the order ?

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammadian Rural) : It is in the *Hindustan Times* of the 8th. It runs like this :

"Bunka, 6th. Sir Abdur Rahim, President of the Assembly, has addressed a letter to Mr. M. Roy, Representative of...."

Mr. President (The Honourable Sir Abdur Rahim) : I want the Honourable Member to read the order itself.

Pandit Sri Krishna Dutta Paliwal : This is the letter from the Secretary of the Assembly which says.....

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member read the whole of the order ?

Pandit Sri Krishna Dutta Paliwal : No, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Then the Honourable Member is wholly unjustified in bringing up this motion. The Honourable Member knows very well that an order passed by the President in the exercise of his duties cannot be brought up on a motion for adjournment. He is a Member of the House and he ought to know it. The motion is disallowed.

PROTECTION OF FEMALE PASSENGERS TRAVELLING IN FEMALE COMPARTMENTS OF TRAINS.

Mr. President (The Honourable Sir Abdur Rahim) : I have received another notice of a motion for the adjournment of the House from **Mr. M. Ananthasayanam Ayyangar** which runs as follows :

"I hereby give notice that I intend asking the leave of the House to make a motion for an adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely, 'the failure of the Government to adopt adequate measures for the protection of female passengers travelling in female compartments of trains, as disclosed by the latest incident of the robbery of jewels from and assault on one Mst. Annapurna on the night of the 2nd October in No. 103 Up-Passenger train on the Grand Chord Line after the train left Ismailpore'."

I should like to know whether this is an isolated incident.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadian Rural) : This is one of a series of incidents which we have been noticing in recent times.

Mr. President (The Honourable Sir Abdur Rahim) : When did these incidents take place ?

Mr. M. Ananthasayanam Ayyangar : The incident referred to in the motion for adjournment occurred on the 2nd October. The other incident occurred on the 25th August and is reported on the 26th September. This is the account which appeared of that incident :

"With tears rolling down her disfigured face, and in the presence of gruesome exhibits, including pieces of her own flesh and those of her infant, together with an index finger of a Police Sub-Inspector. Mst. Sukhdevi, a 17 old married Hindu Girl, related before the Court of Mr. U. L. Bose, Headquarter Magistrate, Hoshangabad, in a pathetic tone, a heart-rending account of the blood-curdling and the inhuman atrocities alleged to have been perpetrated on her and her tender baby, by Kudus, a Moslem of Delhi, in broad day light, when she was travelling all alone with her child in a ladies compartment of the Bhopal-Ujjain passenger train in the last week of August last.

[Mr. M. Ananthasayanam Ayyangar.]

The unfortunate girl, in narrating the pitiable tale of her suffering before the court, stated that on August 25th last while she was proceeding from Cawnpore to Ujjain, with her brother and her one year old baby, she alighted at Bhopal to change for Ujjain, and went into a zenana compartment of the Bhopal-Ujjain passenger, leaving her brother in an adjoining compartment with some other passengers.

At about 10-30 A.M., at Shujalpur Station, when the train was about to move, the accused, taking advantage of her loneliness, entered into her compartment from the off-side, and as the train gathered speed, drew a knife and threatened to kill her unless she consented to his overtures. She tried to pull the communication cord, but was frustrated by the assailant, who, despite her protest, criminally assaulted her.

Proceeding further, the girl stated that after ravishing her, the accused demanded the ornaments, which she refused to part with, whereon he pulled her ear-ring and tore off the lobes of her ears. She attempted to offer resistance, and this further made the assailant more blood thirsty and violent, and he bit off her nose, parts of her cheeks, forehead and arms.

Not satisfied with the lust for blood, the girl further proceeded to say, the accused picked up the infant by the throat, bit off its nose, pulled down one of its eye lids, tearing it off, cut the cheeks and forehead. She then snatched away the child and placed it on her lap, when he again bit it thrice on its stomach, after which he mercilessly thrashed her.

By this time the train halted at the railway station of Akodia."

Mr. President (The Honourable Sir Abdur Rahim) : When was this incident reported ?

Mr. M. Ananthasayanam Ayyangar : It was reported in the *Indian Express* of the 26th September.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : My objection to this motion is that the matter is not urgent. The two incidents referred to took place in the latter half of August and the beginning of October. The last incident was reported in the papers on the 6th and notice of this motion was not given till 10-43 A.M. today. That is my first objection. My second objection is that these two incidents, however regrettable they may be, do not show any system for which in any sense Government should be held responsible and I submit that they are not fit subjects for an adjournment motion. It appears from the Honourable Member's recital of the facts of the first incident that the matter is already in court and is being tried. The matter is therefore *sub judice* and cannot be discussed here.

Mr. M. Ananthasayanam Ayyangar : My point refers not only to the acts of commission but also acts of omission.

The Honourable Sir Muhammad Zafrullah Khan : No act of omission is set forth.

Mr. President (The Honourable Sir Abdur Rahim) : The arrangements have been in vogue for a long time ?

Mr. M. Ananthasayanam Ayyangar : I would say, Sir, that I have got many other instances which I can cite, on the South Indian Railway, the Madras and Southern Mahratta Railway, etc., where women have been the brutal victims.

Mr. President (The Honourable Sir Abdur Rahim) : On the Railways as elsewhere such crimes are sometimes committed, unfortunately.

Mr. M. Ananthasayanam Ayyangar : Such brutal attacks are constantly made by bad characters who get into compartments, there is no protection afforded, such men get in and get out. almost every day in

the railway system. The other day, when it was mentioned here that a man's head was actually cut off on a railway platform, my friend the Commerce Member said that that was none of his business and he said, "let it go".....

The Honourable Sir Muhammad Zafrullah Khan : I have no recollection of that, Sir. I must protest against that suggestion. I have never given such an answer.

Mr. President (The Honourable Sir Abdur Rahim) : This is not a matter of urgent public importance under the Rules and Standing Orders, and I disallow the motion.

REVISION OF THE INDIAN CURRENCY AND EXCHANGE POLICY.

Mr. President (The Honourable Sir Abdur Rahim) : There is another motion for an adjournment of the Assembly standing in the name of Mr. Ananthasayanam Ayyangar, who wants to move for the "leave of the House to make a motion for the adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, to wit, the failure of the Government of India to revise the Indian Currency and Exchange policy, in view of the devaluation of their currencies by Italy and other Western countries having trade relations with India". Is any objection taken to this ?

Mr. G. H. Spence (Secretary, Legislative Department) : Yes, Sir. I submit, Sir, that this motion is covered by your own ruling of the 9th September. On that day you said, Sir :

"There is an adjournment motion in the name of Pandit Govind Ballabh Pant about the externment of Mr. M. R. Massani from the Punjab. Under Rule 11 I cannot consent to the motion being made as the identical motion by Mr. Mohan Lal Saksena has been disallowed by the Governor General."

In this case, it is true, Sir, that the two motions are not textually identical, but I submit that they are substantially identical, and if they are substantially identical.....

Mr. President (The Honourable Sir Abdur Rahim) : At that time I think it was not known—so far as I remember that is what the Honourable the Finance Member stated—how many countries had gone off the gold standard.

Mr. G. H. Spence : I will deal with that point, Sir. The previous notice was in these terms :

"to discuss a matter of urgent public importance, *viz.*, the failure of the Government of India to review their currency policy and keeping an appreciated value of the rupee in spite of the world-wide depreciation of the currencies chiefly brought about by the decisions of the European States.".....

Mr. President (The Honourable Sir Abdur Rahim) : I think the Finance Member pointed out then that as a matter of fact "world-wide" was not the proper description of what happened, and that so far, France only had depreciated her currency,—I think that was his contention ?

Mr. G. H. Spence : What the Honourable the Finance Member said was that the only decision to depreciate known to have been taken up to that time was by France, that similar decisions by Holland and Switzerland were expected, and that the rest was speculation. The motion that was then sought to be discussed was the failure of the Government of India

[Mr. G. H. Spence.]

to review their currency policy in spite of *world-wide* depreciation of currencies actual or prospective, and I submit that subsequent depreciation by Italy introduces no new factor. The motion that was disallowed by the Governor General was a motion to discuss the failure or the supposed failure of the Government of India to review their currency policy in spite of what was happening.....

Mr. President (The Honourable Sir Abdur Rahim) : Is it not possible that the Governor General decided to disallow the motion on the ground that there was no world-wide depreciation of currencies as alleged ?

Mr. G. H. Spence : I cannot of course say what passed in the mind of the Governor General, but I do not think.....

Mr. President (The Honourable Sir Abdur Rahim) : As objection has been taken, Honourable Members who want leave to be granted to move this motion will please rise in their places. (More than twenty-five Members rose.) The motion will then be taken up at 4 o'clock.

BILL PASSED BY THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, in accordance with the provisions of rule 25 of the Indian Legislative Rules, I lay on the table a copy of the Bill to make better provision for the administration of the Dargah and the Endowment of the Dargah of Khawaja Moin-ud-din Chisti, generally known as Dargah Khawaja Saheb, Ajmer, which was passed by the Council of State at its meeting held on the 7th October, 1936.

RESOLUTION *RE* INTERFERENCE FROM PUBLIC SERVANTS IN THE ENSUING ELECTIONS—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Resolution moved by Dr. Khan Sahib, on the 24th September last, *viz.* :

“ That this Assembly recommends to the Governor General in Council to take immediate steps to secure that Public Servants do not interfere directly or indirectly in the ensuing elections to the Reformed Legislatures.”

The Honourable Sir Henry Craik (Home Member) : Sir, it is always rather difficult to resume a speech that has once been interrupted,—and the difficulty is increased when a speech has twice been interrupted, on one occasion by a motion for the adjournment, on the other by an actual adjournment of the House. I feel rather as if I have to make my breakfast out of a dish from yesterday's dinner heated up again and that would be a task which I can approach with no enthusiasm, and indeed with a certain amount of repugnance.

I have however very little to add to what I said last week. One point was raised, I think by way of an interjection during the course of the debate, and that was in regard to a certain circular dealing with elections issued by a Court of Wards in the United Provinces. I have been able to obtain some information about that. The argument, I take it, is that because the President and Secretary of that Court of Wards are Government officers and because some assistant managers are also Government

officers, therefore the Court of Wards is an official or at any rate a semi-official body. Now the fact is that the Court, under an Act passed by the United Provinces Legislative Council in 1933, is now a purely non-official body. There is no statutory provision that the Secretary or the President should be official, and Government are only directly concerned with two questions that come under the purview of the Court of Wards. Those are whether control should be taken of an estate, and whether an estate should be released from the Court of Wards. The President and the Secretary are purely servants of the Court of Wards, which is an entirely non-official body. It consists.....

Mr. M. S. Aney (Berar Representative) : We cannot hear you. We cannot follow you.

The Honourable Sir Henry Craik : If some of these gentlemen will cease carrying on their conversations, Honourable Members will have a better chance of following me. The Court of Wards is now, as I say, a purely non-official body. It consists, in addition to the President, of three members elected by the British Indian Association, which I understand represents the land-owners of Oudh, three members elected by the Agra Zemindars' Association, two members elected by the United Provinces Legislative Council, and one member nominated by the Local Government. It is therefore not surprising that the court, as trustees of what are in the main purely agricultural estates, should wish to protect those estates from the policy of confiscation advocated by the President of the Congress. The best method of securing the defeat of that policy is of course to make sure that the voting power which the Court of Wards estates exercise is not dissipated by the court lending its support to candidates who support the policy of the Congress or to candidates who have no chances of success and thus splitting the voting strength represented by the court. At the time of the last elections, the court enjoined strict neutrality upon all its servants. At that time the court was not a purely non-official body, as it is now, the Act re-constituting it having been passed in 1933. But the result of that neutrality was that the Congress got hold of most of the Court of Wards officials, and, through them, used influence on behalf of the Congress candidates.....

Mr. Mohan Lal Saxena (Lucknow Division : Non-Muhammadan Rural) : When was it ?

The Honourable Sir Henry Craik : In the last general elections.

Mr. Mohan Lal Saxena : In the last council elections the Congress did not take any part ?

The Honourable Sir Henry Craik : In the Assembly elections.

Mr. Mohan Lal Saxena : The Assembly elections were held in 1934 after this Act had been passed.

The Honourable Sir Henry Craik : I am obliged to the Honourable Member ; he is right, but the point is not, in my opinion, very material. The Court has now decided that that arrangement whereby the voting strength was wasted either on the wrong side or was split up should not arise again, and that decision was taken in particular reference to the Congress policy of attacking the large landholders. The position then is that, while subordinate officials like the Patwari or the Chowkidar are servants of Government, the Zilladar, the subordinate official of the Court

[Sir Henry Craik.]

of Wards, is purely a servant of the Court, he is not a public servant in the sense that he is a Government servant, and it is presumed, and I think rightly presumed, that he has just as much right to canvass on behalf of the candidates selected by the Court as has the Zilladar or the local agent of Congress candidates. Equally, the District Officer came into this picture only because he was asked to furnish the Court with information as to who was the candidate most likely to achieve the Court's object of protecting the large estates entrusted to his care, and his function was confined purely to giving that information. His interference went no further than that. The District Officer and his subordinates cannot of course go about canvassing on behalf of any particular candidate, but he has no right and no authority over the subordinate officials of the Court of Wards, and he has therefore no power to prevent them from canvassing.

That, Sir, is the position as regards that point, and I do not think I have anything further to add. I have attempted, so far as information in my possession enables me, to meet the very few charges that have been made in the course of this debate or that have reached me from other sources about alleged acts of interference by Government servants in elections. The total sum of these charges is very small indeed. In most provinces no such charge was even preferred, and where it has been preferred, and it has been inquired into, in a great majority of cases the charge has been found to be either completely baseless or greatly exaggerated. At the same time, I do not claim that there have not been cases where Government servants may have acted with indiscretion or may have omitted to take the precautions to observe the rule in the Government Servants' Conduct Rules. Where such cases have occurred, they have been suitably dealt with.

That, Sir, is all I have to say, and if any other Members have knowledge of further incidents that have not been brought up in this debate, I suggest that if they will communicate them to me, I shall certainly be glad to have them investigated, but as I have said, I have spoken about all the incidents that have been mentioned in this debate or that have come to my notice either from statements in the press or by other means. That, Sir, is all I have to say on that point.

Then, as regards the second aspect of this question, that embodied in my friend, Sir Muhammad Yakub's amendment to the main Resolution, I have stated when speaking during the first chapter of this somewhat disjointed speech, what the policy of the Government is. So far as I am aware, the only reference, to that aspect of the question, was made by the Honourable Member who moved the Resolution, and so far as I could follow his speech, the only charges or the only complaints he had to make were that the police attended the electioneering meetings of his party. I submit that in view of the previous record of that party and the possibility of its opening a new chapter on the same lines as the last chapter, the action of the police was wholly justified.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I rise to support the Resolution and to oppose the amendment. Now, Sir, what does this Resolution seek to do ? It makes a recommendation to the Governor General in Council to take immediate steps to secure that Public Servants do not interfere directly

or indirectly in the ensuing elections to the Reformed Legislature. So far as the principle involved in this Resolution is concerned, there is hardly any difference of opinion. We have had the assurance from both the Honourable the Law Member and the Honourable the Home Member that strict neutrality in elections is the accepted policy of the Government of India, yet there is a controversy over this matter, and that is with respect to the circumstances which have been the cause of action, if I may so term it, for tabling this Resolution, or which prompted the Mover to table this Resolution. The question is, has there been actual interference by Government servants or not? On that point, the Government version and our version do not agree. On the last occasion the Honourable the Home Member made a distinction between the allegations, made in the press and those made on the floor of this House. As regards the allegations of official interference made in the press, the Honourable the Home Member told us that he disputed such allegations. Having said that, he proceeded to point out that inquiries showed that in the majority of cases the allegations were unfounded. I say let us take his own words. Supposing in 60 or 75 per cent. of the cases, the allegations on inquiry were found to be unfounded. The question then arises what about the remaining cases. Here I say that it is an admission on the part of the Honourable the Home Member that our grievance about official interference in elections is true.....

The Honourable Sir Henry Craik : I made no such admission.

Mr. Akhil Chandra Datta : I might not have heard him quite correctly, but I find it reported in the papers, and his language is exactly as I have described. As regards the allegations in the press, no doubt he first said that he did not admit them, but in the very next sentence, he said that inquiries showed that in the majority of cases the allegations were unfounded. What is the inference that one must draw from this? If it is unfounded in the majority of cases, it is well founded in the rest of the cases. The whole question is whether there has been official interference in a very large number of cases or not. Now, Sir, I heard him saying only 5 minutes ago that in the majority of cases the allegations are either unfounded or exaggerated. So, the confession made on the last occasion is made all the more worse by his confession today that even in the majority of cases they are not unfounded but are either unfounded or exaggerated.

The Honourable Sir Henry Craik : The Honourable Member is misinterpreting what I said. I said that in the majority of cases that are investigated the allegations were found to be wholly unfounded and in the remainder they were found to be largely exaggerated. The Honourable Member speaks as if I have had hundreds of complaints. As a matter of fact, I have not had more than a dozen complaints altogether or even less than that I should think.

Mr. Akhil Chandra Datta : We have not been told by the Honourable the Home Member whether the number of cases was hundred or more or less.

The Honourable Sir Henry Craik : I am telling you now. There are less than a dozen cases.

Mr. Akhil Chandra Datta : Now, Sir, as I have said, it is not a question of percentage but it is a question of number. My question is :

[Mr. Akhil Chandra Datta.]

can he cite one single instance in which an offending Government servant has been punished for that interference? What steps have been taken against those officers? Have any steps been taken?

The Honourable Sir Henry Craik : Yes.

Mr. Akhil Chandra Datta : Have the Government issued any statement on these cases? That is one fact. Then, on the last occasion the Honourable the Home Member told us that the Government of India have already issued circulars asking the Local Governments to see that there is no interference. Then what follows? The next statement is very significant. The Honourable the Home Member proceeds to say—I am quoting his exact words—that it is difficult to see what more could be done in this matter beyond issuing some circulars. In this connection, I am reminded of another statement made by the Honourable the Law Member. He said that the Government of India have got tens of thousands of servants and if there has been some interference in some individual cases, it cannot be helped. Now, Sir, my answer is that interference has been not only in isolated instances but in an organised and open manner and on an extensive scale. This happened in the district from which I come. There opposition was offered to Congress candidates during the last Local Board election by the officer in charge of the sub-division, by the other Deputy Magistrates, by the other sub-deputy magistrates, by the Circle Officers and by the Police Officers and by the officers of the Registration Department.....

Mr. President (The Honourable Sir Abdur Rahim) : The Resolution is confined to the elections to the Legislatures and the Honourable Member must confine himself to the Resolution.

Mr. Akhil Chandra Datta : My case is that this Resolution has been tabled because there have been instances of interference with the elections, and the importance of the Local Board election was this.....

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow the Honourable Member to go beyond the scope of the Resolution, which is large enough.

Mr. Akhil Chandra Datta : The Local Board elections and the District Board elections are very important elections.

Mr. President (The Honourable Sir Abdur Rahim) : I have given my ruling that this Resolution is confined to the ensuing elections to the reformed Legislatures. Of course, the Honourable Member is at liberty to refer to anything that has happened in the past with regard to the elections to the Legislatures.

Pandit Lakshmi Kanta Maitra (Presidency Division: Non-Muhammadan Rural) : I rise on a point of order.....

Mr. President (The Honourable Sir Abdur Rahim) : I have given my ruling and there can be no point of order on my ruling.

Mr. Akhil Chandra Datta : I bow to your ruling, Sir. I will now deal with other points. The Honourable the Home Member said that certain circulars have been issued and what more could be done in this matter. Am I to understand that the Government is so helpless that they

can only issue circulars and cannot enforce those circulars ? If that is the position, it is tantamount to saying that the whole duty of the Government in this matter is finished as soon as certain circulars are issued and they have nothing further to do. My submission is that either the Government is incompetent or is not sincere with regard to the issue of these circulars. So, the apprehension on the part of the people with regard to this interference by Government servants is well-founded. My Honourable friend, Maulvi Fuzlul Huq, is here and I shall not dilate on this matter. He will tell the House the interference that is going on in my province in the matter of the ensuing elections. I would like to bring to the notice of the Honourable the Home Member one fact in this connection. At all events, in my province postings of officers and transfers of officers are being manipulated with an eye to election. So-and-so is an out-and-out pronounced enemy of the Congress and therefore he must be retained in or transferred to a particular station to aid a certain party, whether it is the Ministers' Party or any other non-Congress party.

Pandit Lakshmi Kanta Maitra : The Executive Councillors' Party.

Mr. Akhil Chandra Datta : In my province amongst the Muhammadans there are two Parties, one party is being led by the Ministers and Executive Councillors, who are Muhammadans, and the other party by my Honourable friends Maulvi Fuzlul Huq, and Maulvi Ashrafuddin Chowdhury. It is an open scandal in my province that transfers are being manipulated with an eye to election. There is one glaring instance of a non-transfer of an officer like this. He is an I. C. S. officer and is in charge of my sub-division. Very serious allegations have been made against him—allegations so serious that even a hundred criminals ought to be ashamed of such allegations. These allegations were made under the signatures of two gentlemen. One of the allegations is that he is inciting Hindu-Muhammadan tension and disturbance. It is a very serious charge to be brought against a high Government official. Those allegations were made by two gentlemen in writing. One of them is a Muhammadan, an ex-M. L. C. and the other is a Hindu, who is a Member of this House.

Mr. M. S. Aney : That other gentleman is the speaker himself, if I mistake not.

Mr. Akhil Chandra Datta : That is obvious. These allegations were made long ago. Thereupon, an inquiry was made by the Government, but up till now the allegations have not been repudiated. Our demand was that, in view of the fact that he was exciting Hindu-Muhammadan feeling, he should be transferred. That has not been done. I have been told by a high official—I am sorry I cannot mention his name—that we cannot expect his transfer because these transfers are being manipulated in the interests of so-and-so and he gave me the names also. I bring this to the knowledge of the Honourable the Home Member and I hope he will kindly inquire into this matter because it is being openly asserted by the Ministers' Party and by various members of that party that so-and-so will not be transferred until the election is over. Of course, I have not mentioned the name of this officer, but the Honourable the Home Member, I am sure, knows it because I myself took the opportunity of bringing this matter to his notice. What is the result of this official interference in the elections. Why, the inevitable result is that

[Mr. Akhil Chandra Datta.]

the elections are reduced to a farce. We are going to have a new constitution and a new constitution is always brought about either by shooting or by voting. There is no third method. It is proposed to introduce the new constitution by voting, not by shooting. If any Government servant reduces that free voting to a farce, I say he is a rebel against the Government and against the new constitution. He is destroying the Government. Now what is the recommendation made by my Honourable friend, Dr. Khan Sahib, in his Resolution? He says let us have the new constitution by the method of voting, genuine free independent voting and if anybody interferes with that freedom of voting, I say he is guilty of wrecking the constitution and he is only throwing the seeds of shooting. With these words, Sir, I support the Resolution.

Mr. A. K. Fazlul Huq (Bakargunj *cum* Faridpur : Muhammadan Rural) : Sir, so many references have been made to me in the course of the speech of my Honourable friend, Mr. Akhil Chandra Datta, that I deem it my duty to say a few words regarding the development which has recently taken place in my Province of Bengal in the matter of the interference by officials with the course of the forthcoming elections. In order to appreciate the position in Bengal, I wish to draw the attention of the House to one or two essential facts. There are at the present moment in Bengal three parties contesting the ensuing elections,—firstly, is the Congress, secondly, the Agriculturist party commonly known in Bengal as the Praja Party with which I am officially connected, and, thirdly, is the party which came into being suddenly towards the end of May last, sponsored by some fairy god-mother of an official consisting of the Muslim Members of the Bengal Cabinet, Nawabs, Khan Sahibs and Khan Bahadurs and other supplicants for titles and favours whose applications have long been pending and who are desperately anxious to see their names in the Honours List of the New Year's Day. Now, it is not correct to say that the Muhammadans of Bengal, as such, are divided. The party with which I am associated, namely, the Praja Party, has been in existence for the last thirty years, and it has been organized purely on economic lines, it is a non-communal party working for the good of the country. (Applause.)

Sir, in view of the fact that the elections are going to be fought on the basis of separate electorates, we have got to set up Muhammadan candidates for the Muhammadan constituencies and Hindu candidates for the Hindu constituencies and so far as the Muhammadan constituencies are concerned, we come into direct conflict with the ministerial party which consists entirely of Muhammadans. We are therefore fighting not as between Muhammadans and Muhammadans, but as Muhammadans representing a non-communal party and Muhammadans representing a purely communal party. We have taken up this attitude because we consider that in the present circumstances, communal parties are detrimental to the best interests of India. (Hear, hear.) We consider that to bring communalism in the forthcoming elections would retard the progress of India (Hear, hear) as a whole and instead of furthering the interests of any particular party, we will act to the detriment of all interests, of all communities which compose the population of India. (Hear, hear.) Now what happened in Bengal was this. Two Muhammadan Members of the Cabinet, one a Minister and the other an Executive Councillor are the

prospective candidates for election. As the House is aware, the Education Department, the Department of Agriculture and Industries, the Registration Department and the Department of the Co-operative Credit Societies are all transferred subjects under the control of the Ministers. The Inspecting Officers and the Touring officers of these departments thought that the best way they can serve their masters, namely the Ministers, would be by helping them in the matter of election. They went out ostensibly on their official tours, but they went on canvassing on behalf of the Ministers. The scandal became so very prominent that we had to make representations to the authorities for the purpose of restricting the zeal of these officers of these various departments in contravention of the Government Servants' Conduct Rules. I am glad to be able to inform the House that our representations had some effect. One gentleman, a Professor of the Islamia College in Calcutta which is a Government institution—I am not going to mention any names—who happened to be going on tour suddenly stopped his tour, but developed his activity in other directions. He has been writing to the newspapers under various *nom de plumes* and we have found out at least half a dozen of the articles contributed to the *Star of India*, the *Mussalman* and even the columns of the *Statesman* reflecting on parties other than the Ministerial party in Bengal.

Now, Sir, the officers who are acting in this way are carrying on their operations in secret. It is very difficult to find out what they are actually doing. But in one or two instances we have come across and we have found out that the method they pursue is both artistic and ingenious. They go to a village and they talk for instance with the members of certain co-operative societies and incidentally they begin to talk regarding the elections and in the course of their talk, they extol the virtues of the Ministerial party and begin to damn the other parties that may be in the field of election. This kind of activity is very difficult to combat with and the only way we thought best to adopt was to bring it to the notice of the Secretaries of the Government who have kindly promised us to issue further circulars prohibiting this kind of interference. I know certain circulars have been issued, but it is strange that all the circulars are being more honoured in the breach than in their observance. Either there is gross insubordination prevalent and rampant in Bengal or these prohibitory circulars are perhaps followed by other confidential circulars to the effect that the prohibitory circulars are not to be followed. We cannot understand why in view of the incessant number of circulars, Government servants are still going on interfering with the free course of the elections. Then, Sir, the latest development is that certain orders have been passed by at least one District Magistrate to the effect that certain of the Praja Party workers should be interned and home internment orders under certain repressive laws have been passed against them just on the eve of the elections. One can understand that there may be circumstances and occasions on which orders like that may be thought to be justifiable or necessary, but I fail to see why just a couple of months before the election one or two of our best workers should be interned and deprived of their activities in favour of our party. It is easy to conceive that at a time like this all the energies of all the workers would be directed towards the elections and I do not see that any more young men will have extra energy to conspire in secret in order to overthrow British rule in India. These persons who are working for the elections have at least for the moment

[Mr. A. K. Fuzlul Huq.]

become cooperators from being non-cooperators. And it is very difficult to conceive why the rigours of the repressive laws should be applied against them. Sir, I do not wish to say anything more on this subject because I propose to bring this matter to the notice of His Excellency the Governor when I go back to Calcutta, and I will very gladly take advantage of the suggestion that has been made by the Honourable the Home Member to bring to his notice any cases of dereliction of duty by members of Government so far as interference with the elections is concerned. Sir, I do not wish to take up the time of the House any further. But I want to emphasise one fact and I hope I will not be considered as saying anything by way of a threat or anything on which any interpretation may be put other than as a piece of friendly advice. It is true that the officials of the Government of India, for instance, are very sincere in their intentions that the elections should have a free and unhampered course. Personally, I am quite prepared to believe that they are sincere when they say that they do not wish to interfere with the elections. It does not affect them personally how the parties rise and fall and how elections develop in particular provinces. But, Sir, in the provinces there are overzealous officials whose zeal to serve their masters has got to be curbed. And I believe that if proper action is not taken, the rules prohibiting Government servants from taking part in the elections will be broken by Government servants, and as a matter of fact it will put the other parties in a position of great disadvantage. Already we are working under great handicaps. For instance, in Bengal the Council has been allowed to go on for seven years and the Ministers and the Executive Councillors have been in office for seven long years to consolidate their position and to nurse their electors to their hearts' content. Then, Sir, orders have been passed that they should be in office up to the 31st March, 1937.¹⁰ This means that they will be in power all throughout the elections, free to go and visit their constituencies at public expense and meet their voters with all the powers which they possess and all the influence which they enjoy.

Then, Sir, there is another fact which very much hampers us in our elections. Appointments in the Registration Department, in the Department of Agriculture and Industries and in the Education Department have been held up for some time past, and there is a rumour that these appointments are going to be released on the eve of the elections, not for the purpose of efficiency and the interests of public justice but to help the Ministers in securing votes. Whatever may be the reason these appointments have not been made and the public have got a right to make the inference that they have been held up for particular purposes. Now, Sir, faced with all these handicaps, if over and above this Government comes down upon our workers with all the rigours of the repressive laws, it is not difficult to conceive that it is putting the Ministerial party in a position of tremendous advantage over the other parties in the province. I therefore request the Honourable the Home Member to consider whether this particular aspect should not be inquired into. Unless of course there is a very bad case in which drastic action is necessary, I would suggest that no action under any of the repressive laws against any of the workers and against any of the parties should be taken just on the eve of the elections.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has reached his time limit.

Maulana Shaukat Ali (Cities of the United Provinces : Muhammadan Urban) : Sir, may I ask the Honourable Member a question through you ? Now that there is a Muslim League and Mr. Jinnah's party, the Parliamentary League and they have combined with the United Muslims, will it not be possible.....

Mr. President (The Honourable Sir Abdur Rahim) : I cannot put any such question.

Major Nawab Sir Ahmad Nawaz Khan (Nominated Non-Official) : Sir, I rise to thank my friend, Dr. Khan Sahib, in giving me an opportunity to speak on the elections in the North-West Frontier Province. I also congratulate my Honourable friends, Dr. Khan Sahib and Sir Muhammad Yakub, on their Resolution and amendment being accepted by Government. I will remind the House that Dr. Khan Sahib said the other day in his speech that wherever he toured, in Peshawar, Kohat, and Bannu, he saw some hostile demonstrations. But the result was very pleasant because the speaker himself said that instead of subtracting some voters from him there was an addition of voters on his side. If this is the result, then if I had been in place of the Honourable Member I would have thanked the demonstrators for such a good demonstration. And I assure the House that if these demonstrations had been by Government officials, in which Government had a hand, the result would not have been so pleasant as the Honourable Member himself has admitted. I may inform the House that when the same Honourable Member went in my own district and city, Dera Ismail Khan, he was my guest. He had his morning meal with me and I took him in my motor car and drove round the whole city, showed him the bazars, the cantonment and the civil station and he was everywhere treated with respect. The city gave him a very cordial reception. At night there was a big meeting in the heart of the city ; there was not a single voice against, or show of any insult or anything undesirable nor any demonstration which was not in honour of him. He and his party said what they liked to say but there was no interruption, no policemen and no official pressure of any kind. I proclaim this in the presence of the Honourable Member in this House now.

An Honourable Member : But you were there !

Another Honourable Member : He was in safe custody !
(Laughter.)

Major Nawab Sir Ahmad Nawaz Khan : I may tell the House that
1 P.M. there could not be a better and more cordial reception of a Congress leader or a Congressman in Dera Ismail Khan city than my friend, Dr. Khan Sahib got. Then from Dera Ismail Khan he went to Tonk and passed through our district. Whatever reception he had, I think he was very pleased with it. The present complaint of Dr. Khan Sahib is that the North-West Frontier Province Government interferes in these elections. So far as my knowledge, experience and information go the Government have never done in any district anything of any kind to interfere against any candidate or in favour of any other candidate. There is one point which I say now candidly, because the Government has accepted the Resolution. I shall speak of my own district of which I have

[Sri Ahmad Nawaz Khan.]

personal knowledge and on which I can speak with authority. Some of the petty Indian officials like tahsildars and sub-inspectors of police do help their individual friends on account of personal friendship or enmity ; but for such individual actions no sane man can blame the Government of any province. I do not want to give any names, but the present Sayed tahsildar of Dera Tahsil in the Dera Ismail Khan district recently has openly helped one candidate against another and the candidate against whom he helped is very loyal, highly educated and a man belonging to the most respectable family in the whole district. Therefore there cannot be a chance of thinking that there is a Government hand in that, but what is the reason ? There is nothing but personal friendship. Our province is well known for such questions of enmities or friendships. There is a proverb that a Pathan will take revenge after the seventh generation. The people are very touchy. Their temperament is very different from that of the people of other provinces. In the Peshawar district alone, which is the seat of the Government, where there are colleges and there is shortly going to be a university, where Dr. Khan Sahib and the Congress has been preaching non-violence and which district should therefore be a model for other districts in that province, in one year there have been 400 murders, while in the whole of the province of the Punjab there have been 600 murders. The temperament of the people is so uncontrollable : that notwithstanding the policy of the Government of India and our own Local Government, the temperament and hostility, and the feeling of dislike and like among the petty officials are so great that sometimes they do violate the rules in favour of or against their friends or foes. These are individual cases ; and after seeing such a case in my own district my own intention is that after returning from Simla, to bring such cases to the notice of the local higher authorities and also make suggestions to remove these defects. I have decided to suggest the local authorities that in future the polling or revising or returning officer should not be an officer of the same district, but of another district ; and in Hindu constituencies a Mussalman officer should be appointed and *vice versa*, because it is supposed—and to a large extent it is quite right—that a Hindu officer would be more impartial in a Muslim constituency than a Muslim officer and a Muslim officer would be more impartial in a Hindu constituency than a Hindu officer.

An Honourable Member : What about private friendships ?

Major Nawab Sir Ahmad Nawaz Khan : I leave this question and its remedy to my valued friend, Dr. Khan Sahib. My district of Dera Ismail Khan is the safest district so far as murders are concerned and has less crimes than even the many districts of the Punjab.

Like all other provincial Governments the Government of the North-West Frontier Province is very careful about all the criticisms that are often levelled in newspapers about interference in elections or other questions. The Local Government of the North-West Frontier Province is doing its utmost to remain neutral and keep their officials neutral ; but they cannot always do so. I remember that a few years ago the Red Shirts stopped other candidates and their voters from the polling booth to such an extent that the other candidates had to apply to the District Magistrate and asked for the help of the police and with police help the lorries could pass through. In some cases military help was also

required. If things come to such a pass, what can the other candidates do? Interference by Government becomes inevitable there. In the face of experience of that kind, Sir Muhammad Yakub put in that amendment, because he has seen on such occasions such interference in his own province. In such cases police intervention is very necessary; but I lastly and strongly assure my friend, Dr. Khan Sahib, that if he sees calmly and coolly and makes thorough inquiries, he will never find that the Local Government or high British and Indian officials do it as a part of policy of Government to give help to one candidate or to oppose the other. With these words, I resume my seat.

Sardar Sant Singh (West Punjab : Sikh) : Sir, I stand to support the Resolution and oppose the amendment. The Resolution is of such vital importance for the maintenance of representative institutions in this country that it is surprising why the Government is coming forward with "ifs" and "buts" in accepting this Resolution. I want to inform the Honourable the Home Member of one fact which is that we who have gone through elections know much more by personal experience than all the logic that can be brought to bear upon the subject. I am sure he will not contradict us when we say that there is a lot of interference by the civil service in the elections to the Legislatures both central as well as provincial. None can deny that the duty of the administration is to be very vigilant over this question of interference by the civil service on the ground that it leads to indiscipline in the services and consequent corruption for which ultimately the State suffers.

The Honourable the Home Member, while speaking on this subject, said that he could not allow the maintenance of law and order to be jeopardised even during the election days. I think it was made clear from this side that nobody advocates the abdication of the functions of the Government by any executive officer of the State. But at the same time nobody would like that under the plea of maintaining law and order lawlessness should be committed by these executive officers. The stories about interference by civil servants in ordinary election times are so many and so numerous that it really seems an irony of fate that denial should come from official quarters. The plea that is always taken up is that on inquiry such complaints have been found, in the majority of cases, by the Government unfounded. My submission is that, even accepting this to be the case if there was a single case where interference has been proved, we are perfectly justified in condemning the Government in not taking suitable, swift and summary action. One instance is sufficient to spoil the whole course of elections. I may here be permitted to mention that in England this convention is enforced with very great rigour. No Government whether Labour, Conservative or Liberal, would permit its civil servants to interfere in elections....

Captain Sardar Sher Muhammad Khan (Nominated Non-Official) : How do you know that? You have not been to England?

Sardar Sant Singh : Those who care to read can learn, but those who come from the Army are not expected to know these things (Laughter), particularly Nominated Members.

Sir, as I was submitting, the discipline in the civil service is insisted with so much vigilance by the British Government in England that it is not at all surprising that civil servants know their proper place in the

[Sardar Sant Singh.]

constitution of their country. The recent case of the Secretary of the Air Ministry will be fresh in the minds of Honourable Members. He was a member of the Home Civil Service. He was dismissed from service. Why ? For interfering with matters which did not concern his duties as a civil servant. Is it not a good example to be followed ? Is it not absolutely essential that the discipline of the services should be enforced in this country as well by the same strict standard. Sir, our grievances in this country are two-fold. Our one grievance is that we have bad laws and the second is that if there be some good laws, the same are badly administered. Whenever good laws are proposed, if they are passed here at all, they are rejected in the other place. There they have got a safe place to reject what is passed here as good and salutary. The bad administration of laws makes us feel extremely resentful against some of the actions of the civil servants.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can resume his speech after Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Sardar Sant Singh : Sir, before we adjourned for lunch, I was submitting before the House that we are suffering from two-fold grievances in this country. The first grievance is that we have bad laws, and the second grievance is that even if there are good laws, they are so badly administered that we find out ourselves placed in a difficult position not knowing how to meet them. Even if we succeed in introducing some sort of reform by private legislation, there is a safe House where the legislation considered fit and passed here is thrown out if Government chooses to oppose it, and invariably the Government do choose to oppose such legislation. What we desire to point out to the Government is this, that if they are sincerely....

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, may I point out that neither the Honourable the Home Member nor the Honourable the Leader of the House is here,—I believe the Leader of the House is unwell today,—but who represents the Government in this debate today ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : There must be some one here.

Mr. J. A. Thorne (Government of India : Nominated Official) : The Honourable Member in charge of the Department is not present in this House. I am the Joint Secretary, and I am present.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I think it very desirable that the Honourable Member in charge of the Department should be present on such occasions.

Sardar Sant Singh : I was submitting that if the Government are really serious that representative institutions should develop in this

country, it is of the utmost importance to see that the people who are returned to the Legislatures are really the peoples' representative and not the representatives of the bureaucracy. In regard to this matter, one grievance was specifically brought to the notice of the House in the Delhi Session by means of a Resolution which was carried by a huge majority, that the United Provinces and the Punjab Governments have decided to maintain a system of marking the ballot paper, which distinction is really not understandable. While the other provinces have adopted the use of the coloured box, the Punjab and the United Provinces Governments have recommended to retain the system of marking the ballot paper,—and the United Provinces Government have probably issued a gazette notification to that effect. Why do these provinces insist to retain that system? Because they are determined to interfere in the election of the peoples' representatives. There can be no explanation of this extraordinary course they have adopted. If the Government decides to prohibit direct interference in elections by civil servants, then there is another form of interference of which the Government will have to take note, and that is the system of demi-official's by the executive officers to their favorites. I should be excused, Sir, if I refer to a personal matter in this connection. In the Lyallpur Municipality, when the Municipality decided to present an address to Pundit Jawaharlal Nehru, a demi-official was written by the Deputy Commissioner to the President, who was his own creature, a few days before the matter was to be discussed by the Municipal Committee asking him what steps he had taken to prevent this address being presented to Pundit Jawaharlal Nehru. It would be interesting to read that demi-official to show the House how interference is made in such matters....

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhammadian Rural) : How did you manage to steal this demi-official?

Sardar Sant Singh : Unfortunately for the D. C. and fortunately for us, the President put it in the file of the Municipal Committee, and we discovered it. In that D.-O. the Commissioner and the Deputy Commissioner wanted to know from the President how he intended to deal with the motion which had been tabled by certain members to present an address to Pundit Jawaharlal Nehru. This is another way of interfering in elections. May I ask, what action do the Government propose to take in the matter of writing such D.-O.'s stealthily, surreptitiously to their own confidantes in order to interfere in election matters.

Then, Sir, there is another menace from which the country is suffering, and that menace is the peculiar conditions of the presence of the Indian States in this country. I remember that in my election one important State in the Punjab sent some of its own officials, who drew the travelling allowances from that State, to interfere in my election and to preach against me. Even now in the Punjab elections, candidates are being set up who are in the service of the States to contest the elections in the Punjab. (At this stage, the Honourable the Home Member entered the Chamber.) May I ask the Honourable the Home Member who has now come to the House what steps he proposes to take in this matter. Is he or is he not aware that the States are setting up their salaried servants as candidates in the coming elections?

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member has got only one minute more.

Sardar Sant Singh : Then, Sir, I want to bring to the notice of the Honourable the Home Member an important point, so that he may elucidate the position for the benefit of the country, and that is this. What is the position of the paid servants of the Government,—and I am referring here to the paid Advisory Council of the Sind Province ? What is their position in the matter of interfering in the coming elections and organizing a party ? These are questions which are peculiar to India ; they cannot be found in England, because conditions there are quite different to those prevailing here. I would request the Government to take all these matters into serious consideration and review the position in the light of the circumstances prevailing in this country.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : In the meantime, I would request you to read paragraph 307 of this book, Government of India Act, 1935, first. (Laughter.)

Mr. Satya Narayan Sinha (Darbhanga *cum* Saran : Non-Muhammadan) : Sir, I rise to support the Resolution moved by my Honourable friend, Dr. Khan Sahib. I take the opportunity on this occasion to place before this House, and particularly for the information of the Honourable the Home Member, certain facts in regard to the interference of the Government of Bihar in elections, especially in the coming elections to the Provincial Assembly and the Council. The matter had come to such a pass that I was compelled to give notice of an adjournment motion which the President disallowed on the ground that the conduct of the Governor could not be discussed in this House. I knew that it was a drastic step but the House will agree with me that more often than not, a drastic situation requires a drastic remedy.

Mr. K. Ahmed : It cuts both ways.

Mr. Satya Narayan Sinha : You will be surprised to know that the Government of Bihar in this respect is a confirmed sinner or criminal, by whichever name you may choose to call it. This is not the first time, though I admit that this time it has beaten all previous records, that it has been found guilty of casting to the winds all rules of conduct of Government servants with regard to the elections to the Legislatures and the like. There have been consistent and persistent efforts on the part of the highest officials of the said Government to organise parties of reactionaries and *jo-hukums* to fight the progressive parties there. In the year 1932 a party was formed in our province at the instance of a gentleman whom I cannot name, Sir, lest you might pull me up, but it is an open secret and any man in the street in the province knows about it. No pains were spared to make the party active and kicking, but it died a premature death. A daily newspaper, *The Indian Nation*, was also started with the money of the Maharajadhiraja of Darbhanga to support the policy and programme of the party. The Commissioners of Divisions were asked to collect subscriptions from the big zamindars for the party and they did collect some money. One gentleman defined the party in a humorous way, but all the same, it conveyed the true definition of the party. He said, Sir, that the United Party was united against the Congress but divided against itself. (Laughter.) The heterogenous elements who under pressure from above were forced to join the party could not pull together for long because some of them found their self interests clashing.

Great efforts were made this year also to resuscitate the party but it failed for reasons, by narrating which I do not want to waste the time of this House.

This time they have chalked out a new plan altogether. Not many years ago, I think it was towards the end of 1933, in the election of the District Board of Gaya in my province of which I have positive proof, a sub-divisional officer, not content with helping a candidate by all possible means, went to the polling booth and sat on the door of the room where ballot boxes were kept. He remained sitting for hours, brow-beating the voters who wanted to put their ballot papers in another candidate's box and beckoning them to put the ballot papers in his favourite's box. At another place, the same officer put his coat on the box of the rival candidate and thereby prevented illiterate voters from putting their ballot papers in the box of the candidate whom they wanted to support.

[At this stage, Mr. K. Ahmed interrupted sitting.]

Mr. Deputy President (Mr. Akhil Chandra Datta) : If any Honourable Member wants to interrupt, he must get up in his seat.

Mr. Satya Narayan Sinha : He is incorrigible, we ignore him, he is beneath contempt.

In the year 1935, during the election of the present Assembly, the Government of Bihar tried its utmost to influence the landed magnates to set up their nominees against the Congress candidates and in some constituencies they succeeded in having such candidates, though all had to suffer ignominious defeat. I have definite and correct information at least about my own constituency. Several questions were put in this House in the winter Session of 1935 regarding that matter and the Honourable the Home Member, as usual, gave evasive replies. Sir, three months before the election of the Assembly there was a conference at Darbhanga which was attended by the highest official of the Province and pressure was brought to bear on the Maharajadhiraj of Darbhanga to take keen and active interest in defeating me.

Mr. K. Ahmed : Question.

Mr. Satya Narayan Sinha : It is a fact. You may question yourself. (Laughter.) It is a fact, Sir, that before the said conference the Maharaja of Darbhanga was somewhat lukewarm in his support to the candidate who fought the Congress. But I must admit that the District Magistrate, Mr. Preston, who I am sorry has recently resigned on account of some difference with the Government of Bihar, in spite of his being cognisant of the highest official's interest and his close and intimate relation with the Maharaja of Darbhanga and his chief manager, behaved like Caesar's wife above suspicion. We all admired his fair dealings. But such officers are very rare and they cannot very long pull on with the present Government. In the same year, in the election of my esteemed friend, Mr. Shri Krishna Sinha, in the district of Gaya an over-zealous deputy magistrate went from house to house of all the big zamindars of his Ilaka, telling them that if they voted for the Congress they would incur the displeasure of the Government and would be put to trouble. I do not want, Sir, to name the gentleman because he is dead. But, this year, Sir, things are being done so openly that it has really become scandalous in my province. Go there and ask any man who has even little intelligence and

[Mr. Satya Narayan Sinha.]

you will, I am quite sure, get the same report of the interference of the Government everywhere. In the months of last July and August reactionaries of almost all district of the province were called to attend conferences at Ranchi and Patna. For days together, there were pour-parlers and confabulations with the highest officials where plans were hatched and lists of prospective candidates were drawn up to fight the candidates of the progressive views tooth and nail. Big zamindars were asked to finance the party and some of them who have enough money promised to contribute reluctantly because they dared not say no, lest they might incur the displeasure of the high gods there. A series of editorial comments has appeared in the local newspapers regarding the alleged participation of the highest officials of the Government of Bihar in the formation and organisation of groups and parties with the avowed object to fight the Congress in the forthcoming elections. Its publicity officer, Sir, who is known to be garrulous and ultra-sensitive does not let go any allegation against the Government unchallenged, but in this matter even he could not muster courage to refute the charge. The fact is so palpable that it has touched even his conscience and he decided to keep mum, thinking perhaps discretion to be the better part of valour.

Sir, both the Ministers of Bihar are touring in the districts at the public expense for organising parties and rallying all reactionaries to fight the Congress. I know, Sir, that a Minister is entitled to organise his own political party, but certainly not at the expense of the public exchequer. Questions regarding their such tours were asked in the local Council in the last month and they were thoroughly exposed because they could not defend it.

One of the Ministers makes no secret of repeating before his friends and satellites that he is doing these things at the instance of the Government. Some of his friends to whom the Minister had spoken have personally told me what I have said here.

Sir, the effect of this open move on the part of the Government of the province is bound to be very undesirable for the candidates of the parties who do not carry favour with them. You know that the subordinate officials in the districts when they come to know that the highest officials are interested in particular candidates or groups of candidates they will, I am afraid, go to any length to help those candidates by means fair or foul, more generally by latter means. The presiding and polling officers at every polling booth are these people. They can exert undue pressure on the voters in various ways and if the aggrieved party will have to complain against it, whom will it approach ?

The ballot boxes will be in the charge of the Government. The Government officials will be the counters of votes. If they so like, they might break open the ballot boxes and take out as many ballot papers from the boxes of one candidate and put them into their favourite's box. They might even declare one who secures less number of votes than his rival, duly elected. If things are allowed to go as at present, the day is not far off when all that I have said might be realities.

Sir, if Government are so anxious to act in the partisan spirit, they should, in all fairness, set up some other agency to conduct the election. otherwise why enact a farce of election of this kind ? When the Congress

had boycotted the Legislatures, I remember very vividly how the Anglo-Indian papers, the oracles of the Government, were not tired of condemning the great national organisation for its decision, and now that it has decided to enter the Legislatures several unfair devices are resorted to, to keep its nominees off. Sir, when the present Viceroy came to Delhi first, he made a statement that his Government would remain strictly neutral in the coming elections. High hopes were raised amongst the people that the elections would be conducted in all fairness this time. His Excellency in his recent address which he delivered to the Joint Houses the other day laid stress on the point, that he would work to the best of his power with any and every political party that may succeed in winning the confidence of the electorates. In view of both the statements, may I through you, Sir, appeal to the Viceroy that he should exert his influence to put a stop to the vagaries and nefarious activities of the Provincial Governments without any further delay. We want a fair field and no favour.

Sir Abdul Halim Ghuznavi (Dacca *cum* Mymensingh : Muhammadan Rural) : Mr. Deputy President, I oppose the Resolution of my friend, Dr. Khan Sahib, and support the amendment of my friend, Sir Muhammad Yakub. The Resolution is this—to take immediate steps to secure that public servants do not interfere directly or indirectly. Government cannot help my Honourable friend in any way whatsoever. They cannot restrict the liberty of public servants, Government can do whatever they like with their own servants but they have no business to come near any public servants or tell them what they should do or should not do.

Pandit Lakshmi Kanta Maitra : Can Government servants do whatever they like ? Is that the contention of the Honourable Member ?

Sir Abdul Halim Ghuznavi : I will tell you what the Government servants can do and cannot do, if you will have a little patience. So far this Resolution is concerned, it is practically out of date and it cannot be considered by this House at all. Government cannot interfere with public servants. There is not a word said in this Resolution about Government servants. If they had said, Government servants, I would have understood the subject being discussed on the floor of the House. The amendment is the real thing that ought to be considered and debated. Before I deal with the main Resolution I want to answer my Honourable friend, Mr. Fuzlul Huq, who is not here. He made sweeping charges against the Ministers and the Moslem Member of the Bengal Government. I think it is unfair that these charges should be made against these gentlemen behind their back. It was open to Mr. Fuzlul Huq to make these charges in Bengal, in their presence or in a public meeting or by means of an open letter but he takes no steps whatsoever in that connection.

Pandit Lakshmi Kanta Maitra : He has done it. He has also written to His Excellency the Governor of Bengal.

Sir Abdul Halim Ghuznavi : It is my friend's colossal ignorance that is responsible for these suggestions. He has done nothing of the kind.

Pandit Lakshmi Kanta Maitra : You are more in the know of Government secrets than I am.

Sir Abdul Halim Ghuznavi : One of the charges he made was that in their capacity of Ministers and Member, they were touring in Bengal and carrying on an electioneering campaign. They are Ministers and they will be Ministers till the 31st March. They are touring and they will tour. You cannot prevent their touring at the Government expense or the public expense.

An Honourable Member : They cannot canvass for votes.

Sir Abdul Halim Ghuznavi : They can do so. What about ministers in England. They engage in election campaign while they are ministers and while they are not out of office. They have every right to go to the voters and make whatever propaganda they like and there is no law to prevent that. That is the law in England and that must be followed here if we want democratic Government. What is the contention ? It is that the voters will be influenced by these Ministers. because they are Ministers. If that is the position in India, then we had better not have democracy at all. Every man who will go before an elector must prove to the elector that he is a fit person to be elected. not because he is a Minister or a Member of the Government.

Pandit Krishna Kant Malaviya : A Daniel come to judgment !

Sir Abdul Halim Ghuznavi : Except yourself. Speaking for Bengal, my experience is quite different. The tyranny of the Congress has got to be prevented and the Government officials will have to be told to safeguard the interests of the minorities. But before I deal with that. I want to say one thing. Mr. Fuzlul Huq had mentioned that there are two Muslim parties, one is the United Muslim Party, which he said consisted of Ministers, Members of Government, title holders, etc. (*An Honourable Member :* "and yourself.") I do not belong to any party whatsoever. Nor am I seeking election to the Bengal Assembly. When the Congress put up a candidate in opposition to me, they failed and failed absolutely in spite of the fact that they brought tons of money to support my rival candidate. If you want, I can give some more evidence as to the money that was being spent to put up a candidate against me. But they failed absolutely. and the candidate had to disappear at the last moment. Then there was another party, called the Proja party which had been in existence for the last 30 years. If that was so, where was the Proja party in 1921. Where was it in 1924 and 1926 ? Where was that Proja party even in 1930 ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : All that is not strictly relevant to the question before the House.

Sir Abdul Halim Ghuznavi : Sir, it is relevant to the speech of the Honourable Mr. Fuzlul Huq who made his speech this morning about the Proja party. I understand that there was no Proja party in existence for the last thirty years !

Mr. Deputy President (Mr. Akhil Chandra Datta) : The fight between the two parties can certainly be discussed, but certainly not the history of the Proja Party.

Sir Abdul Halim Ghuznavi : Whatever that may be, the position is this, that there is now a Proja Party and there is now also a United Muslim Party. What I want to tell my Honourable friends is that there are not only these two parties but

there are many other parties,—e.g., the Muslim League Party, the Majlis Party, the Independent Party, and the Muslim League Election Board Party. (*An Honourable Member* : “and Loyalist Party.”) There is no Loyalist party in Bengal, as there is in Bihar. (*An Honourable Member* : “and Purdah party ?”) (Laughter.) I want to tell my friend, Mr. Fuzlul Huq, that this party or that party will not help any candidate to get himself elected. Let it be said to the credit of the Mussahmans of Bengal now that although they were not allowed for the last eight years to exercise their franchise because there was no election to the Bengal Council, the Muslim electorates will test every Member before they exercise their vote, and will consider whether they should vote for him or vote for any other person. No “party” ticket is going to guarantee the success of a candidate in the forthcoming elections—I can tell the House ; and they will know this in the course of two months’ time.

Pandit Lakshmi Kan'a Maitra : Then why are you not standing ?

Sir Abdul Halim Ghuznavi : I am sure that if I stand, I shall be returned uncontested, and I can throw out a challenge to my friends opposite to set up as many candidates as they can to contest me. (Hear, hear.) Sir, what I want to say about Bengal is this. So far as I know, His Excellency the Governor has made it abundantly clear to every one of us that Government will not interfere in these elections and he has made it abundantly clear by an open letter to the Press that the Government will do all in their power to be absolutely neutral so as to allow the electors to elect whomsoever they like. (Interruptions.)

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order. Let the Honourable Member proceed with his speech uninterrupted.

Sir Abdul Halim Ghuznavi : What we want in Bengal is this. We do not want outside interference. Leave us there alone. We do not want Jinnahs and Maulanas. We do not want Parmanands, we do not want Malaviyas, we do not want Munjis. Sir, we, the Hindus and Muhammadans of Bengal, will settle our communal differences, and we will stand together as Bengalis, and as Hindus and Mussalmans afterwards. (Hear, hear.) You will see that. Every Hindu and every Muslim in Bengal will work to settle the communal dispute that is going on in Bengal, in a very short time, and we will stand as man and man together, as Hindus and Mussahmans together. We shall solve our communal differences and stand together as Bengalis first and everything else afterwards. (Hear, hear.) Now, Sir....

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member has got only one minute more.

Sir Abdul Halim Ghuznavi : Now, Sir, as I said, I may close now by saying, “save us from the tyranny of the Congress”,—and that is why I want to support my Honourable friend, Sir Muhammad Yakub’s amendment. He wants to give us that protection that we want,—namely, from the tyranny of the Congress which I am afraid will put us to a tremendous trouble in the new elections. Sir, what is the way they do it ? They set up candidates unknown in Bengal and finance them, and the man who ought to be elected finds himself in a difficult position to contest them because of the abundance of money which is behind them, and I have documents in my possession to show that every candidate who was set up by the Congress was financed by them up to heavy amounts. Sir, we

[Sir Abdul Halim Ghuznavi.]

want in connection with the next elections that Government should give us due protection and that they will see that any undue coercion.....

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member's time is up.

Sir Abdul Halim Ghuznavi : by any party in order to gain their object in view should be prevented and should not be allowed. Sir, I oppose the Resolution and support the amendment.

Seth Govind Das (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I could not understand the definition just now made by my Honourable friend, Sir Abdul Halim Ghuznavi, about the terms "public servant" and "Government servant". Sir, Government servants, are "public servants", and what the Resolution asks is that they should not interfere directly or indirectly with the coming elections. Now another thing which my Honourable friend, Sir Abdul Halim Ghuznavi, said was that Ministers in England are free to do propaganda for their own election and also for their party. Now, Sir, the status of Parliament and of the Indian Legislatures is not the same. If that status is given to the Central Legislature and the provincial Legislatures, we shall not have any grudge if the Ministers do propaganda in favour of their own election or in favour of their party. In fairness to Indian conditions, in the Government of India Act of 1935, in section 69, it was prohibited for any salaried officer under the Government, be he an Executive Councillor or a Minister, to stand in the forthcoming elections. Later on, to favour certain individuals, section 307 was added, lifting this ban as far as the first elections go.

The Honourable Sir Henry Craik : Section 307.

Mr. K. Ahmed : You better read that section.

Seth Govind Das : I do not think I have time enough to read it, but I would refer that section to my Honourable friend and would ask him to read it.

Now, Sir, just like the Frontier Province, Bengal and Bihar, there is direct and indirect interference in the forthcoming elections in the Central Provinces by Government officials, but, Sir, the methods of the Central Provinces Government are not so crude as the methods of the Frontier Government or of the Government of Bihar and that is perhaps on account of a shrewder man being at the helm of affairs there. The Government and the public know that man and I think I cannot do full justice to my province without naming him here. He is the Honourable Mr. E. Raghavendra Rao, the Home Member of the Central Provinces.

The Honourable the Home Member said that definite allegations were not made by us as far as this interference goes. Let me point out to him that we have neither Censor Department to open letters of Government officials nor we have C. I. D. to run after Government officials. When there are one thousand cases of interference or even more we can get trace of one and that we place before the Government. The whole thing is that even the Government of India do not know to what extent their subordinate Governments and their officials are interfering with the elections. As far as the Central Provinces Government go, they have been doing this by adopting many methods and here I shall describe a few of them. The first method

which they have practised is the appointment of such officials at places where the Congress has its stronghold who are notorious for their partisan spirit. This has been done mostly in the Hindi districts of the Central Provinces where the Congress commands a tremendous influence. The Government as well as the public know that there are two kinds of officials in Government service. One class of officials does not bother much about politics and it looks after the work which is entrusted to it in its official capacity. The other class has very little to do with its official duties, which are performed by its subordinates, and its main business is to dabble in politics to please its higher authorities. Now, Sir, the officials of the latter class are being appointed and are being transferred to the districts where the Congress has stronghold. These officials are organising zamindars, bankers and the monied classes who are going to oppose the Congress in the next elections. This is going on in my province for the last two years since the Congress has decided to contest the elections. Another method which is being followed is the creation of Honorary Magistrates in abundance. This is being done chiefly in Chattisgarh, and especially in district Bilaspur, the home of Mr. E. Raghavendra Rao. Sir, such persons are being made Honorary Magistrates who do not know anything about the law, who do not know how to conduct the cases and whose main purpose is to organise a party against the Congress. The third method is that some high officials are touring throughout the province organising receptions for themselves, using official influence in collecting subscriptions for these receptions, inducing certain local bodies to present them welcome addresses and, while replying to these addresses, they say very little about civic matters but do a lot of propaganda against the Congress. In this connection, my Honourable friend, Seth Sheodass Daga, tabled a motion of adjournment but it was disallowed. I am tempted to quote some of the speeches of Mr. Rao here but I am sure I shall be also declared out of order and therefore I resist my temptation. However, I would ask the Honourable the Home Member to read speeches those of Mr. Rao which were made by him as Governor in reply to certain addresses. From these speeches the Honourable the Home Member will find how much propaganda has been done against the Congress. Then, Sir, there is a rumour afloat in my province that a master-stroke of interference is going to be struck very soon. Certain likely Congress candidates are disqualified to stand for elections because of their taking part in the civil disobedience movement and being sent to jail for more than one year. It is rumoured, Sir, that Central Provinces Government is not going to remove their disqualification. We would not have believed in this rumour but that has been done in my province in the last Assembly election. Government know that Pandit Dwarkadas Misra and myself were nominated by the Congress Parliamentary Board to contest the Assembly elections. We were both sentenced in the same case by the same Magistrate on the same offences for two years. We were both disqualified, my disqualification was removed but not of Mr. Misra. I hear that the same thing is going to be done in my province and the disqualification of some strong candidates who are going to be set up from my province is not going to be removed. This, I say, is the master-stroke of interference.

Now, Sir, it is an open secret in my province that Government somehow or other has fallen in love with our present Home Member, Mr. E. Raghavendra Rao and it is rumoured that section 307 in the Government of India Act was added to the Act on account of some favourite persons of

[Seth Govind Das.]

Government foremost amongst them is Mr. Raghavendra Rao. Sir, in the name of fairplay it was desirable that when the term of his office of Home Membership was coming to an end, it should not have been extended. He should have stood as an ordinary individual. If the Government was so enamoured of him or if he was so anxious to enter the Provincial Legislature this was the right way for him as well as for the Government. But his term of office has been extended and now he is standing as a Home Member. Legally, he can do so. But I look at the whole question, not only in this respect but in other respect also, from the moral point of view—and I say that it is against all canons of justice and fairplay to allow any individual to stand for the elections as an official with all the influence of his office at his back and with the whole machinery of Government organisation at his disposal.

Sir, if the Honourable the Home Member really wants that the Government should not interfere in the elections, directly or indirectly, he should make real inquiries in this matter and not content himself by issuing circulars which is generally done at such times. These circulars have very little value in the provinces or in the districts. The Provincial Government and the district authorities think that such formal circulars come every time and they do not attach any importance to them. They go on with their activities as usual. If the Honourable the Home Member is satisfied with these circulars let me tell him that interference will be made and he would not be able to prevent these interferences.

In spite of all this, I am absolutely certain that there is going to be a majority for the Congress in the Central Provinces Assembly. There was a Congress majority in the Central Provinces Council in 1923. This time, again, the Congress has decided to stand for the Legislatures, and there is going to be a majority for the Congress in Central Provinces. When this Resolution is brought forward, in fairness to my Province, it is my duty to put forward what is going on there. Sir, I support this Resolution.

Pandit Krishna Kant Malaviya : Sir, it would have gladdened the heart of Sir Bamfield Fuller, if he had only been living today, to see that his wrong Ghuznavi is righted and is on the right path now. This is all I have to say so far as my Honourable friend is concerned. Sir, you have heard the tale of misery, as narrated here, in this House, by my Honourable friend, Dr. Khan Sahib, so far as the North-West Frontier Province is concerned. You have heard about the doings of the Government in the Central Provinces and in the Punjab. I want to tell you just what is going on in my Province. I want you to have a peep into what is going on in our blessed United Provinces. I hope you are aware of the fact that we had a Governor, Sir Malcolm Hailey, now Lord Hailey. He toured round the Province, went to every district and sent for the zamindars of the Province, the zamindars of the district and organized a party which is known as the National Agricultural Party to fight the elections. He retired and Sir Harry Haig took possession of the provincial *gadi*. Now he has taken up the work and is implementing and supplementing with all his might the work left over by his predecessor. Sir Malcolm Hailey was the father and Sir Harry is the God-father of the party.

The Honourable Sir Henry Craik : I rise to a point of order. May I call your attention to Standing Order No. 29 under which no Member while speaking may reflect upon the conduct of any Governor as distinct from the Government of which he is the Head. I submit any reference to His Excellency the Governor or any reflection on his conduct is under that Standing Order out of order.

Pandit Krishna Kant Malaviya : If the facts are as narrated by me and the Honourable the Home Member takes them as a reflection on the Governor and the *ex*-Governor of the Province, I have only to say that I am simply speaking the truth and narrating facts which are known to every single inhabitant in the Province and they cannot be denied even by the all-powerful Home Member.

Mr. Deputy President (Mr. Akhil Chandra Datta) : It is a well known rule that an Honourable Member while speaking cannot make any reflection against the Governor of a Province. He can certainly make a reflection against the Governor as the head of the Government, but not personally.

Pandit Krishna Kant Malaviya : I bow to your ruling, Sir, most respectfully. What I want to say is this. I want to know if it is denied that the National Agriculturist Party owes its existence and its birth to Sir Malcolm Hailey (now Lord Hailey). Is this fact denied by the Honourable the Home Member ?

The Honourable Sir Henry Craik : My reference was not to the *ex*-Governor. There is no Standing Order so far as I know preventing reflections upon the conduct of an *ex*-Governor. No reflection is permitted upon the conduct of the present Governor.

Pandit Krishna Kant Malaviya : My contention is only this that the National Agriculturist party owes its existence to the indefatigable labours of the *ex*-Governor and unfortunately or fortunately the Members of the present Government and the Government servants deem it their duty and are doing everything in their power to support the party in the coming election. Not only that. Even today the *Leader*, the only paper of our Province, daily comes out with reports from its correspondents that the present occupant of the Provincial *gadi* sends for the leaders of the Agriculturist party, tries to organize them, compose their differences and is actually running the party from behind the purdah. If this is a reflection, as I have said, Sir, I do not want to cast any reflection, I cannot help it, but I am simply narrating the facts as they are and as they are known to everybody in the Province.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : That is not correct. I do not know it.

Pandit Krishna Kant Malaviya : If the Honourable Member prefers living in darkness, I cannot help it. In our province there are only two parties, the Congress party and the Government party. It is only these two parties that are in the field of election. The Government party or the National Agriculturist party is led by highly placed officials, by men who have been in the Government, who are in the confidence of the Government and by some others who aspire to gain the ministerial *gadi*. It is an open secret that a terrible fight will be fought in the United Provinces between the Government and the Congress party in the coming elections. (Hear, hear.) Does it stand to reason, is

[Pandit Krishna Kant Malaviya.]

it fair, Sir, then that the Government should in any way interfere in the coming elections when it will be itself a party in the coming elections ? The Honourable the Home Member told us that he had examined about a dozen cases and has come to the conclusion that the charges are untenable. I am prepared to believe his statement, but let me respectfully add this also :

*"Vahi Katil vahi shahida Vahi munasif khre
Akrabu nara Karen Khān ka dula hispe."*

You see, Sir, they are the accused, they are the witnesses and they themselves are the judges, they decide the cases, they have the papers in their own hands, we simply stand aside, they see the papers, they let in their own evidence and then write out their decisions according to their own sweet will. You must have read, Sir, that the Provincial Congress Committee of our province recently met and they were thinking of keeping aloof from the elections. They say that if the Government are so keen on having their own men, on having their own majority by fair means or foul in the coming elections, when, even the secrecy of the ballot box will not be respected, what is the good of contesting elections then. The position in our province will be this : a voter goes to the polling booth to give his vote. The agents of the candidate will be present there. Now, let us take the case of a big zamindar and a tenant or any other man who is standing as a rival candidate. The agent, zildar or the manager of the zamindar will be standing at the polling booth. The illiterate voter has to go there and name the man in presence of the agents for whom he wants to cast his vote. Does it stand to reason, Sir, that in the presence of the agent of his own zamindar, the illiterate voter who is a tenant under him, will have the courage to vote for any candidate as against his zamindar. If the poor voter should do so, the moment he goes out of the polling booth, he will be given a good shoe-beating, and he may be driven out of his land and his life may be made impossible in the village.

Mr. K. Ahmed : What about the agent of the other candidate who intimidates the poor illiterate voter to vote for him ?

Pandit Krishna Kant Malaviya : How can he intimidate ? Well, I can understand persuasion, but I cannot understand coercion. Sir, if the leader of the Government or the highest officials of the Government were to stand in the polling booth and plead their cause and try to convince the voters that they are on the right path, I would have nothing to say against them.

Mr. K. Ahmed : Where is the evidence ?

Pandit Krishna Kant Malaviya : Don't interrupt. You don't understand what I am talking about.

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhamadan Rural) : Your interruptions are the greatest evidence.

Pandit Krishna Kant Malaviya : We in the United Provinces want that Government should not interfere and there should be no intimidation and interference by Government servants so far as the coming

elections are concerned but if it does so, it should come out in the open and fight with clean hands. I can narrate a tale about my own election. One of the Executive Councillors during the time of election campaign began his winter tour. He came to my district, sent for the zamindars and spoke to them to vote for my rival candidate. I had to send him a personal letter requesting him not to do these things. Fortunately my rival was defeated and as soon as the result of the polling was known the rival candidate was made a Rajah. He is a friend of mine and I have nothing against him, but this is the way in which Government support their own candidates and try to defeat those who want to represent the people. I have given you an idea of what is going on in the United Provinces and I request every Member of this House to see that so far as the United Provinces are concerned, there should be fair fight. I challenge the Government to fight the Congress party with clean weapons. I do not ask any favour, I want a fair contest, no coercion, no shoe-beating, no dislodgement of land, no victimization of voters and we will see which party wins.

Mr. P. J. Griffiths (Bengal : Nominated Official) : Sir, I have listened with considerable interest to the speeches of the Opposition, speeches which have consisted of the usual hotch-potch or the wildest allegations against Government and its officers unsupported by any shred of evidence. If I had listened 10 or 15 years ago to the allegations made by my Honourable friend, Sir Datta and Sir Nurul Jung, I should indeed have been perturbed : but I have learnt from long experience on how slender a foundation such allegations can be and constantly are based.

Pandit Sri Krishna Dutta Paliwal : Your record in Bengal is notorious.

Mr. P. J. Griffiths : If the Honourable Member can possibly restrain himself for 15 minutes, he will perhaps learn a good deal in that period.

Let me take first the allegations made by my Honourable friend, Mr. Akhil Chandra Datta....

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order. I am afraid the Honourable Member cannot refer to my speech so long as I am in the Chair.

An Honourable Member : You come down, and let there be a Chairman.

Several Honourable Members : Order, order.

Mr. P. J. Griffiths : Sir, I am going to criticise your speech, not in your capacity as Deputy President, but as a Member of this House.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Supposing the Honourable Member makes a statement about me, I am not in a position to contradict it from the Chair. So my ruling is that as long as I am in the Chair, the Honourable Member cannot refer to my speech.

Mr. P. J. Griffiths : I will submit to your ruling....

Mr. K. Ahmed : Sir, on a point of order, is it not the long-standing practice here....

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order. I have given my ruling, and the Honourable Member must obey that.

Mr. K. Ahmed : Sir, if you allow me to go on and then after hearing me.....

Mr. Deputy President (Mr. Akhil Chandra Datta) : Is it on that point of order ?

Mr. K. Ahmed : Yes, Sir, something else. (Laughter.)

Mr. Deputy President (Mr. Akhil Chandra Datta) : I will not allow it ; Mr. Griffiths is in possession of the House.

Mr. K. Ahmed : Very well, Sir.

Mr. P. J. Griffiths : Sir, I accept your ruling, but in view of the necessity of that ruling, would it be possible for you to allow me to resume my seat now and continue my speech when the President takes the Chair ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member may resume his seat, but he will do so at his own risk and if any standing order stands in the way of his speaking for the second time, I shall not be able to help it.

Mr. P. J. Griffiths : In that case I will continue my speech, and I will deal first with the allegations of my Honourable friend, Mr. Fuzlul Huq, and hope that when I have finished with him I shall not be hampered by your still having to occupy the Chair.

I was much interested to hear those strong objections taken by Mr. Fuzlul Huq, that redoubted champion of public integrity, in connection with this particular matter of elections ; and if he were here.....

Pandit Govind Ballabh Pant : Sir, on a point of order, may I know if the expression "redoubted champion of public integrity" which has been used sarcastically is in order ? Does Mr. Griffiths say that it is a sincere and frank expression ? If it is used sarcastically, is it in order ?

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Is no sarcasm ever indulged in on that side ?

Pandit Govind Ballabh Pant : It is open to the other side to object when it is indulged in.

Mr. P. J. Griffiths : I am surely entitled to take every Member of this House at his face value ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : If the insinuation is that he is dishonest and wanting in integrity, it is certainly not in order.

Mr. P. J. Griffiths : I am surprised that such a suggestion has occurred to my Honourable friend, the Pandit.

Pandit Govind Ballabh Pant : If the Honourable Member says I am wrong in thinking so, I do not mind. I will take him at his face value.

Mr. P. J. Griffiths : Sir, to resume my speech, I was much interested to hear from Mr. Fuzlul Huq his very impassioned championship of the cause of public integrity, and if he were here, I should have much pleasure in congratulating him upon the very able way in which he made this Assembly an electioneering platform for the Praja Party. All of us present in this House must have great sympathy with him in his distress. It is indeed hard that for the last seven years there should have been no elections in Bengal and that Mr. Fuzlul Huq should thereby have been excluded from office. So far as he confines himself to lamenting his fate, he is on safe ground. But when he turns from that to complain of the action of Ministers in carrying on election campaigns, he is on ground which is very far from being safe—what is a veritable quicksand. I would ask him, in what country in the civilised world do not the Ministers of the Crown carry on their election campaigns while still in office? Mr. Fuzlul Huq tells us almost with tears in his eyes that these evil Ministers will be in power till March, 1937, and that while they are in power, under their very eyes, as it were, this election campaign will have to be conducted. If Mr. Fuzlul Huq lived in any of those more advanced countries where democracy has been in force for a considerably longer period, he would have exactly the same galling experience to face there. I can see no kind of logic in Mr. Fuzlul Huq's contention that the practice which exists in every civilised country in the world should be discontinued here.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

But Mr. Fuzlul Huq proceeded from the general to the particular. He told us that Government servants were daily influencing election campaigns, and in respect of this he produced one astonishing instance. He told us of a professor of a college who was even canvassing for the *Star of India* and, worse than that, was making election speeches. Mr. Fuzlul Huq's passion was entirely wasted, because his facts were completely incorrect. The professor concerned was Mr. Altaf Hussain. Professor of the Islamia College. The only action taken by Mr. Altaf Hussain was to gather together a meeting of his students and tell them that they were quite right to take an intelligent interest in public affairs, but that that interest should remain theoretical until their student days had passed; that they should concentrate their energies on their studies, and, until that period of their lives was finished, should not devote themselves to active political campaigning on either side and so interfere with the prospects of their success in examinations. Does my Honourable friend, Mr. Fuzlul Huq, really think that such action on the part of a professor is unwarrantable? Then, again, Mr. Fuzlul Huq told a very sad story about the internment of members of the Proja party and he suggested that there should be a kind of criminal moratorium during the currency of the elections; that until the elections were over no member of the Proja party ought under any circumstances whatsoever to be interned or, presumably, to be made subject to any other processes of the criminal law. That is a contention which on the face of it bears its own answer. If Mr. Fuzlul Huq wishes his party followers to be immune from internment let him see that they are equally immune from subversive activities.

[Mr. P. J. Griffiths.]

I now come to the main point in my criticism of the unfortunately absent Mr. Fuzlul Huq. Mr. Fuzlul Huq spoke with great indignation about the action of officials in taking part in elections. But Mr. Fuzlul Huq forgot to tell this House that he himself tried to secure for his own party the help of the highest official in the province of Bengal. Mr. Fuzlul Huq forgot to tell this House that on the 8th of August he wrote a letter to the Governor of Bengal in which he started off by saying "May I, through the medium of the press, make a respectful but earnest appeal to Your Excellency to help the peasant movement of Bengal as against the activities of the newly formed United Moslem Party?" This the very Mr. Huq who pours such withering scorn upon those poor officials who dare to interfere with elections, is the same Honourable Member who two months ago sought the assistance of the highest official in the province in support of his own party against a party of his co-religionists. But fortunately, as always, the attitude of the Government was more correct than the attitude of its opponents. To that letter of Mr. Fuzlul Huq, His Excellency replied in terms which made it perfectly clear that neither he nor any Government servant could or would have anything to do with political parties in any place whatsoever. I draw your attention to this: Mr. Fuzlul Huq the apostle of electioneering purity is found guilty of attempting to drag the Governor into party politics and the Governor of the province is seen taking, what perhaps my Honourable friends opposite do not relish, an attitude of perfect correctness.

I turn now briefly to the allegations made by my Honourable friend, Mr. Akhil Chandra Datta. Mr. Akhil Chandra Datta is a gentleman for whose sincerity and honesty I have a very high personal regard; and I am convinced that, in every word he utters, Mr. Akhil Chandra Datta sincerely believes that he is telling the truth. But unfortunately, sincere and honest though he is, Mr. Akhil Chandra Datta has some very queer friends. He has friends who have a habit of misleading him about matters of gravest importance; and I suspect that the very same people who have misled him this year were also those who misled him last year into making an entirely unfounded statement about the Dacca riots.....

Mr. Akhil Chandra Datta: I challenge you to disprove my allegations.

Mr. P. J. Griffiths: If the Honourable the President would rule a discussion on the Dacca riots in order, nothing would give me greater pleasure. I turn now to the specific matter which was the subject of Mr. Akhil Chandra Datta's allegations. Mr. Akhil Chandra Datta told us in the first place that in the province of Bengal transfers were being manipulated for political purposes. As an official in Bengal, reasonably familiar with the transfers which take place and with the reasons for which they take place, I deny that statement categorically, and I challenge Mr. Akhil Chandra Datta to produce one single piece of concrete evidence in support of it. Mr. Akhil Chandra Datta, not content with alleging that transfers are manipulated, tells us a very sad story of a certain officer in the district of Tipperah.....

Mr. Akhil Chandra Datta: I did not say Tipperah: you are wrong.

Mr. P. J. Griffiths : I stand corrected. Mr. Akhil Chandra referred to a certain officer who was busily engaged in fomenting communal trouble and he said he had laid information regarding this officer's activities before the highest authorities in the land. I shall give you very briefly the history of the facts on which Mr. Datta's allegations are based....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has got only one minute more.

Mr. P. J. Griffiths : Sir, may I submit that, before you came to the Chair, interruptions took away a good deal of my time—nearly five minutes....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can go on for another five minutes.

Mr. P. J. Griffiths : The facts of the case were that the sub-divisional officer of the place concerned, a very energetic young Muhammadan officer from the Punjab, found on his arrival there that the district was suffering badly from malaria, that the crops were getting worse year after year, and that the canals were choked up with the water hyacinth....

Mr. Akhil Chandra Datta : On a point of order, Sir : can he make reference to these matters? I did not make the least reference to them.

Mr. P. J. Griffiths : I am explaining the facts which, in spite of the opinion of Mr. Akhil Chandra Datta, are the real grounds of the allegation which he innocently made....

An Honourable Member : That is your imagination—not fact.

Mr. P. J. Griffiths : The sub-divisional officer of this place finding things in such a sad condition set to work to secure the co-operation of the local public. As a result of his efforts and of the confidence which he inspired in the local public, a canal 18 miles long was excavated by voluntary labour, without any expenditure from public funds. These are the facts of the case : these are facts which led to the complaints made against him today.

Mr. Akhil Chandra Datta : Nothing of the sort. I did not make any the least reference to this.

Pandit Lakshmi Kanta Maitra : What has that got to do with electioneering and with the Resolution?

Mr. P. J. Griffiths : I have no objection to interruptions so long as my time is correspondingly extended. The result of this piece of first class constructive activity was to arouse the intense jealousy and hatred of the Congress. The Congress, as might be expected, thought that the Government was likely to get credit for all that had been done, and the Congress with its usual astuteness at once set to work to turn the situation to its own advantage. Hence proceeded those allegations which have been made to the effect that the sub-divisional officer of that place is busily engaged in fomenting communal dissensions....

An Honourable Member : Government did not contradict the statement.

Mr. P. J. Griffiths : If Government had to spend their time contradicting every allegation of that sort in this Assembly, they would have no time left to carry on the Government of the country.

(Interruptions by Members on the Opposition Benches.)

Mr. President (The Honourable Sir Abdur Rahim) : Let the Honourable Member speak without being interrupted.

Mr. P. J. Griffiths : I merely wished to establish the fact that this achievement aroused the jealousy of the Congress and led it to make unfounded allegations of communal interference. I should have thought myself that the Congress Party would have been most anxious to avoid this question of interference with the freedom of the citizen. I should have thought that the Congress Party would have been most careful to abstain from allegations that this official or that had been engaged in collecting subscriptions for political purposes,—I should have thought this all the more in view of what has recently taken place in Bihar. Honourable Members are aware that serious floods have recently occurred in Bihar, and for the relief of the suffering consequent on those floods, certain sums have been earmarked by the Bihar Central Relief Committee. There are here ample reports from the Collectors concerned....

Mr. Ram Narayan Singh (Chota Nagpur Division : Non-Muhammadan) : Can the Honourable Member take more time ?

Mr. President (The Honourable Sir Abdur Rahim) : The Chair is the sole judge of time in the Chamber.

Mr. P. J. Griffiths : There are ample reports from the Collectors concerned that that sum is being used by Congress agencies for purely electioneering purposes.

Some Honourable Members on the Congress Benches : Entirely false.

An Honourable Member : He is a liar.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must withdraw that word. It cannot be used in this Chamber.

Mr. P. J. Griffiths : The Congress agents are going round from village to village distributing rice and grain even in places where there is no shortage of food. (*Cries of "Oh, oh!"* from the Congress Party Benches.) Special attention has been paid to certain villages in which no floods have occurred, but which happen to contain the residences of the Congress candidates. If my time permitted, I could multiply instances by the dozen, but it is far too well known to every impartial person in this country that the whole object of the Congress has been, is and I fear always will be to dominate elections by every means in their power, be the same fair or foul. In conclusion, when we remember the parlous condition of Bengal in 1929 and 1930 and when we bear in mind the intolerable tyranny inflicted upon innocent citizens by the organised Congress Party of Eastern Bengal, at that time we have every ground to fear not interference on the part of the Government, but interference and tyranny from the most tyrannical of all parties, the Congress Party.

Pandit Govind Ballabh Pant : If any argument were needed in support of the Resolution that is now before this House, that has been furnished by the last speaker. (Hear, hear from the Congress Benches.) It is men like him, belonging to his class, to his tribe and his breed who are in actual charge of administration in the districts and are ever possessed by and imbued with an inveterate, deep-seated, hostility, aversion and animosity against the Congress,—it is men like him that furnish the ground for this Resolution. Whatever my Honourable friend has said, conclusively proves in a demonstrative manner whether you can expect from men of that class any fairplay where Congress sets up candidates in elections. He has made no secret of what he thinks of the Congress, he is only interested in vilifying the Congress and in introducing irrelevant stuff and imaginary fictions, though they have no bearing on the present Resolution at all. Sir, I will not, however, waste my time on him.

Mr. M. Asaf Ali (Delhi : General) : Or his ilk.

Pandit Govind Ballabh Pant : It is not worth while doing so. The Honourable the Home Member robbed the Honourable the Law Member's utterance of the grace that it possessed. Viceroys may come and Viceroys may go, but the Home Member of the Government of India can neither learn nor unlearn. He will continue to be the crustied, hide-bound tory which life long habits have unfortunately turned him into. It is difficult for him to shed off habits formed for a lifetime. We asked for bread and he gave us stones. We wanted him to give us an assurance that Government servants will keep aloof from elections.

An Honourable Member : He has given you that.

Pandit Govind Ballabh Pant : He has given us something entirely different and he has given more than that. He warned us "if you people indulge in seditious speeches, if you make speeches of an undesirable type, don't expect any indulgence, the long arm of the law will be there and every one of you will be arrested". Thanks for this information and for this assurance. So far as our complaints go, he says, "you have not furnished any evidence, and if you have furnished any, it does not satisfy me, and even if it has satisfied me, I think there has been no interference". Like the commentators of old, while accepting the language of an aphorism, they misinterpreted and distorted it so as to suit their own vagaries. The Honourable the Home Member cannot obviously repudiate openly the rule in the book which had been framed by the Government of India itself. The rule requires that there should be no interference on the part of Government servants. He has to accept it, but when you ask him to interpret what interference is, he says there is no interference in advice, there is no interference in using influence with a view to coercing candidates to withdraw, and there is no interference in anything that the Government servants choose to do. That is the interpretation of interference. The circular of the Court of Wards lays down definitely that the Court of Wards should oppose the Congress candidates so that not a single Congress candidate may be returned. But he says that it is not interference. If Government servants, I. C. S. men and provincial service men, are concerned, he argues that they are not there as Government servants. When he was reminded of what Hobbart did or Darling did, he said that he saw no harm in a Government servant intervening between three or four candidates with a view to secure the withdrawal of

[Pandit Govind Ballabh Pant.]

two or three so that the remaining official candidate may have the backing of the other three or four against the Congress candidate. Thanks for that interpretation of interference. It is very straightforward and sportsman like. I am really amazed at the demoralisation that has set in in the Government of India, at the unbounded scepticism and distrust that has taken hold of them. When they framed their enactment they kept in reserve all powers. When it came to carving out constituencies, they framed them in such a manner as to facilitate the return of their own friends—I do not wish to use a stronger expression—and to prevent the entry of independent nationalists. When it came to fixing the number or the situation of polling centres and polling areas they again consulted the convenience of their own creatures, pliable and docile gentlemen who always seek their patronage. When it came to prescribing the method of ballot or voting, they have done things which cannot be described in any restrained manner. They have devised diabolical methods for that, but they are not satisfied with these devices. They must interfere with elections. We have been asked to furnish evidence. I have got it and I will go on furnishing evidence and quoting authority.

Mr. K. Ahmed : You cannot do that as the time is up. Look at the clock, it is 4 o'clock.

Pandit Govind Ballabh Pant : In spite of Mr. Kabeer-ud-Din Ahmed, my time will enable me to have my say. I may inform the Honourable the Home Member of the latest information that I have. The Congress Committee in Sitapur District wanted to hold a meeting on the 4th of this month. They advertised this meeting, the meeting was to be held at a place called Kanna. The Secretary of the Agriculturist National Party.....

(It being Four of the Clock.)

Mr. President (The Honourable Sir Abdur Rahim) : **Mr. Ayyangar.**

MOTION FOR ADJOURNMENT.

REVISION OF THE INDIAN CURRENCY AND EXCHANGE POLICY.

Mr. M. Ananthasayanam Ayyangar (Madras Ceded Districts and
4 P.M. Chittoor : Non-Muhammadan Rural) : Sir, I move that the House do now adjourn.

The object of my motion is that while the whole world is now trying to adjust its monetary policy the Government of India is sitting with folded hands, while the fire is raging from Cape Camorin to the Himalayas. Government has shown colossal indifference in this particular matter. Monetary policy is the soul of a nation and of its industry. The Government of India have for a long time been playing with the currency and monetary policy of this country. In or about the year 1898, the free minting of gold and silver had been given up. They tried to settle the ratio between gold and rupee at Rs. 15. Later on, it adjusted itself to Rs. 15 for a time but soon after the war, they settled it at Rs. 10 per sovereign. Soon there was a loud protest. There was a commission where there was a dissenting note by Mr. Dalal that the world prices would not stand at that level and that it would be unfortunate if it

should be fixed or stabilised at Rs. 10. In a very short time Government realised its mistake because they could not stabilise it at Rs. 10. Suddenly it went up from Rs. 10 to Rs. 20. Later on in the year 1927 they settled the ratio at 1/6 per rupee. Even then there was a loud protest and there was many a dissenting minute. They threw all of them to the winds. That is because they wanted to improve the trade of England, the export trade of England to India and to cripple the export trade of India to England. Sir, the monetary policy is important for this reason. The exchange ratio is intimately connected with the wealth or the growing importance of a trade of a particular country. If our currency appreciates in value, to that extent, our articles become dear as compared with foreign articles. If our currency depreciates in value to that extent our articles become cheaper to other countries. If any person wants to purchase an article from England in India, he has to pay now 1/6 for an article which is worth one rupee in this country. Likewise if today a person wants to purchase an article in England worth 1/6 in India, he can easily purchase it by paying one rupee. Now, this is the object of depreciating the currency—if the currency is depreciated the local articles become cheap to other countries and other articles become dear to their own country. England went off the gold standard in 1927 and in spite of the dissenting minute of such an eminent authority as Sir Purshotamdas Thakurdas and other persons in India that the ratio should not be fixed at 1/6, it was fixed at that rate. I would refer to the dissenting minute of Sir Purshotamdas Thakurdas in the Hilton Young Commission's report. He referred to various items, the level of prices before and after, wage increase and various other matters to which the Hilton Young Commission addressed itself. He denied every one of those things and proved positively that 1/4 ought to be the ratio to one rupee. That was given up. A particular disadvantage was caused to this country. Ever since, the balance of trade in favour of India has been going down steadily.

The Honourable Sir James Grigg (Finance Member) : That is not true.

Mr. M. Ananthasayanam Ayyangar : I will show you from your own figures. In 1924 our export trade was to the tune of 400 crores. Then our import trade was to the tune of 250. Thus, there was a balance of trade of 150 crores in favour of India. Gold or silver or sterling or paper had to flow into this country for that purpose. In 1929 it came to 75 crores, in 1932-33, it came to 33 crores and 1933-34 to our disgrace it came to 3 crores. The export trade was 136 crores and the import trade was 133 crores and the balance of trade was 3 crores. I challenge my Honourable friend, the Finance Member, to show that my facts are incorrect. I have taken the figures from the Review of Trade which has been published, to which he can also refer.

The Honourable Sir James Grigg : Come to the next two years' figures.

Mr. M. Ananthasayanam Ayyangar : In the next two years it came up to 33 crores and 90 crores. No doubt there was a sharp rise but it again fell down. I have tried to gather some of these statistics for the months ending with March but I have not been able to get them. Whereas England and other countries have improved their balance of trade, we have not improved.

The Honourable Sir James Grigg : For the five months of this year, it was at the rate of 60 crores a year.

Mr. M. Ananthasayanam Ayyangar : That is not affected yet. Now, Sir, the point is that in 1927 a very bad mistake was committed by fixing the ratio at 1½6. Ever since that, whatever trade we had began to shrink gradually. Later on in 1931, England itself went off the gold standard. Simultaneously our rupee was linked to sterling. We thought that to that extent there might be an advantage in that the rupee is also depreciated in value along with sterling but unfortunately for us the Ottawa Agreement came about and what was given with one hand was taken away with the other. A preference was sought and preference was imposed and the ratio operated to the detriment of this country. The English export to this country increased and our export to England decreased. Let that alone. France adamantly stuck to the gold standard and we thought that inasmuch as the franc had its own value and our silver in terms of the franc depreciated in value, at least there our exports would increase to the other countries but unfortunately the Ottawa Agreement had its own repercussions. Every country in the world put its own barrier against our articles by tariffs and various other devices, though not as a protest or as a retaliatory measure. Each country did not hesitate to put its barriers upon our goods and every country in the world which had its own trade with us put similar barriers. Honourable Members are aware that we have to export our goods. England does not take more than 25 to 30 per cent. of our exports. No doubt, it was originally 25 per cent., but after the Ottawa Agreement it agreed to take up to 30 per cent., but with respect to the balance of our trade with other countries of the world, our balance has been going down steadily. Now the time has come when we have to see where we stand in the world. France, which has hitherto been sticking to the gold standard along with some other countries of the world, and which took most of our export trade, has now devalued the franc. It is for this reason that the tripartite agreement was entered into behind our back, even without consulting such an eminent expert as our Honourable the Finance Member, all this was done behind our back, without consulting the Government of India, by England, and now we have merely to look on. France thought that for the purpose of increasing her export trade, that it would stabilise its franc, and it has devalued the franc to a large extent. The other day when an adjournment was moved in this House, the Honourable the Finance Member said that France alone took that step, that the other countries had not done so and they were only contemplating, and he was not certain whether the other countries would follow suit. Yesterday we found that Italy has followed suit ; it has devalued its lira by 40 per cent., and today we find in the press that Czecho-slovakia has also passed a Bill, and it has been accepted by the Cabinet, devaluing its own currency. In this way various other countries are following suit one after another. France, Italy, Czecho-slovakia and all countries to which India has been exporting, much more than it has been importing from those countries, are all devaluing their currencies. Those are countries which have been responsible for taking 70 per cent., of our export trade. They will devalue their currencies and we will merely look on. Our export trade to England has no doubt risen by 5 per cent., but England is not in a position to take all our export articles. We had to look to the other countries as well till now to take our export articles. I find my

friend Sir Homi Mody is laughing along with my friends of the European Group. I would only request him to see what the Bombay magnates have to say as to how the Indian prices would be affected by this. This is what this paper says : " As far as India is concerned, while it may lead to competition in the exports of cotton piecegoods and artificial silk between Italy and Japan, it will also affect the exports of Indian raw cotton, American cotton being cheaper. Although devaluation of the lira would mean a better readjustment of international trade, opinion in financial circles in Bombay indicates that trade with Italy will not be immediately a straightforward matter because of restrictions in that country ". This is the opinion of merchants in Bombay. Then I would refer to the statement in the tripartite agreement and the consequences that were apprehended when France went off the gold standard. They say that it might affect the internal prices in the Dominions.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member's time is up.

Mr. M. Ananthasayanam Ayyangar : Very well, Sir. I, therefore, move that while all the countries of the world are going off the gold standard, devaluing their currencies, we alone ought not to have stuck on to this. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved.

" That the House do now adjourn."

Mr. B. Das (Orissa Division : Non-Muhammadian) : Sir, nobody will dispute that an alarming situation has arisen in India, the same condition as prevailed in 1931, when the Rupee was linked to sterling. I wish, Sir, I wish there was a procedure in this House that whenever a situation arose in this House over the financial problem of this country, over the currency and exchange or the trade position of the country, the Government bring forward a motion to discuss the matter before this House. Unfortunately, the Honourable the Finance Member spoke in a way the other day as if nothing had happened, and that Government had decided to do nothing in the matter. He may have been satisfied at that, but the whole country and the industrial community all over the country is dissatisfied and feel alarmed that India's trade position will deteriorate, and the much flaunted press communiques that the Finance Department are accustomed to issue for the last five months, have shown that India's trade balance is favourable and the prices are rising, but all that will now vanish. I would have very much liked, without this adjournment motion coming up for discussion on the floor of the House, if the Honourable the Finance Member had asked the House to discuss the trade position of India. Sir, the Honourable the Mover of this motion, Mr. Ayyangar, has asked whether the proper antidote to the present alarming situation in India is the devaluation of the currency or the delinking of the Rupee. How far any mandate of this House will enable the Finance Member today to take such a step, or whether he will feel himself in a position to take an independent attitude in this matter without the consent of the British Government I have my doubts, but he cannot do much, still he can take us into his confidence and do something favourable to this country.

The financial position of this country has no doubt been made clear in an interview which Mr. D. P. Khaitan, President of the Federation of

[Mr. B. Das.]

Indian Chambers, has given to the press, and he has demanded that the Rupee should be delinked from the Sterling. Another *ex-President* of the Federation of the Indian Chambers, a valued and eminent *ex-member* of this House, Mr. Jamal Muhammad, has sent us telegrams pointing out that India would suffer from double handicap, appreciation of Indian Currency and depreciation of foreign currency and that by the depreciation of the currency in other countries, India's trade will go down, and Government must therefore take steps and review its own position. What the industrial community is surprised at is not that the franc has been devalued, but the consequences that follow on the tripartite agreement, that smaller countries have to come at the tail end of these three big countries to devalue their currencies. India's trade position with Holland, with Belgium, Italy and Germany; to whom we are mostly exporting our articles, has hitherto been satisfactory, and that trade position will not be maintained in future. The Finance Member knows that when the Steel Protection Act was passed and British steel secured certain advantage, Belgium wanted to restrict her trade with India, and Belgium had since restricted her trade with India. Belgium has devalued her currency. What will be the position of the steel trade in India when Belgium devalues her currency? The Finance Member has received very alarming telegrams from the sugar industry. The reply he gave to the Short Notice question of my Honourable friend, Mr. Ramsay Scott, did not satisfy anybody. Of course, the Finance Member will plead that he has the definite power under the Tariff Act or the Sea Customs Act to raise the import duty on sugar. That is only one particular industry, but there are other industries, smaller industries, which are struggling in India, and trying to maintain their own position against foreign competition.

Sir, it is well-known that India's trade with Germany has fallen. Germany established its foreign exchange system with England whereby Indian traders could not get its foreign exchange facilities that only British traders got in respect of trade with Germany and today, although in the case of certain items of export, particularly cotton and jute, India's trade with Germany has been improving, according to an alarming note that I saw in the Press today, her trade with Germany will have to go down. And as far as Italy is concerned, Italy has devalued her currency. Now Italy is no friend of India. We find in this very hill station of Simla that Italian fruits are sold as against Indian fruits,—and Simla is situated in the best fruit-growing tract of India. Italy will not only increase her exports to India but India will lose her export market considerably. She has already lost her rice market with Italy and she will also lose her export market in Italy in cotton, in oil, in paper and also in jute. Sir, these are very alarming situations. The Finance Member, limited as he is under the handicap of being dictated by England at every stage, cannot make any promise, neither can he delink the rupee nor can he de-value the rupee. Again he has got his old plea that the gamblers on the Bombay or Calcutta Stock-Exchanges will so gamble that unnecessarily the credit of India will suffer. Sir, that a few gamblers should so frighten the Honourable the Finance Member that he will not take the country into confidence as to what the Government's considered view at present is,—whereby they can maintain not only the present trade position of India in relation particularly to these

European countries but that we can hope for better trade relations,—passes my understanding ! Sir, I look with alarm at the agreement of England with America. Now on account of the depreciated dollar, America will flood the Indian market. It is well-known that America has lost her Indian market. Very little Indian goods can go to America ; yet America, with her mass production system and her better advantages in cotton-growing, and thanks to my Honourable friend, Sir Homi Mody, always manages to get an advantage in selling American cotton in the Indian market. Now, American cotton will come into India, and Indian cotton will be at a disadvantage. Sir, these are alarming situations. I cannot here condemn the methods of the Government of India so effectively as to stimulate them to more active action so that they must tell the British Government, in spite of the British Government ignoring the Government of India while they entered into this tripartite agreement with France and America, of the present alarming position of India, and of what the trading community and the industrial community think and also what the agriculturists think. Sir, I do not wish to talk much on the agriculturist as I know my friend, Professor Ranga, will rise afterwards but this much I know that agriculturist has suffered serious economic handicap particularly after 1931. I agree with the Finance Member that there is recovery in prices and that the agriculturist, who has been looking forward to a silver lining, is getting a little more for his produce than he has been accustomed to for the five years since 1931, and today the agriculturist will have to look to dark days once again when he will have to go on with the sale of his produce at an uneconomic price so as to meet the landlord and the Mahajan, and whereby nothing is left for his family and other dependents. So, Sir, this is not a thing which the Finance Member of the Government of India should treat lightly. He must not only maintain the present trade recovery position in India but he must see that India does get an advantageous position in the international trade market of the world. He might say that, as the rupee is linked to sterling, if Britain gets certain advantages, India too might get certain advantages, but the Finance Member knows it—he may not agree with me—that India has suffered from the Ottawa Agreement in her relations with European countries and other foreign countries : and when, Sir, those big foreign countries come into collusion with England and depreciate their currencies, they get a further chance of exploiting India and to dump their goods on the Indian market. I fear the Honourable Member will not be able next year to say then that India's credit is very high up and that he has got so much surplus and that he has got a balanced budget. These are alarming situations and I hope the Honourable the Finance Member when he rises to speak on behalf of the Government of India will speak in the best interests of India and not at the dictate of Whitehall.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muthamman Rural) : Sir, there was a time when it would have been necessary to advance arguments for or against the depreciation of currencies and its benefit to any country. Now the present trend of events in the world itself has proved that there can be no question that the depreciation of currency cannot but be useful in the present circumstances of every country in the world. I would ask the Government Members and this side of the House to keep quiet and to take a referendum of the world. Take any independent nation, any nation which is being

[Qazi Muhammad Ahmad Kazmi.]

governed by its own people, and find out what opinion they have got about the depreciation or over-valuation of the currency of a country and I say that if you were to take that vote, you would not find any civilized country in the world which can say that devaluation will not be beneficial either for the agriculture or industry of any country. Now for any side to claim or to argue that depreciation can be prejudicial to the interests of a country is not possible, because, if you go to America, if you go to France, which suffered so sorely and worked so hard to keep the parity of her currency, if you go to Japan, if you go to Germany, if you go to any country in the world, you will find that, on account of the very necessities of their own country, on account of the competition of the world markets, on account of their own difficulties, they had to depreciate their currency for the sake of their agriculture and industry.

Now, Sir, so far as the condition of India is concerned, may I say that it is only by the advent of British rule that we do suffer from this idea of over-valuation or depreciation of currency. So long ago as the nineties of the previous century, there was no such question. The rupee had its own value, *viz.*, the silver content of the rupee, and it was only because of the commitments of the Government of India towards the British Government, and for supporting the import trade, that for the first time in 1890 there was a lot of discussion and the Government wanted to have a fixed value for the rupee. At that time the value of the rupee happened to be about 14d. and the price of silver was going down and in spite of the protests of all Indians and of persons who were living in India, the British Government decided to close the mints in 1892 and from that time onwards they have been trying to appreciate the value of the rupee off and on. From 14d. in 1892 they succeeded in bringing it up by the year 1900 to 16d. though, according to the silver contents of the rupee, the price would have been much less. Still, the Government of India continued that policy and the Indians were satisfied with their lot and they were thinking of a time when it would be possible to have a coin of the proper value in India and to have a convertible gold coin. Sir, it was for some time that the Government continued that policy and kept the rupee at 16d. But by the advent of the Great War we find that the Government, which had been continuously making money by coining silver rupees and selling them at 16d. was at a disadvantage because there was a rise in the price of silver which led the rupee to depart from that value. The Government at once, in the interests of the importers and in the interests of other countries, raised the value of the rupee to as much as 24d. They appointed a Commission which recommended the price of the rupee to be 24d. and we were forced to incur a loss of crores of rupees in order to maintain that artificial ratio which was only in the interests of the Government of India and in the interests of the importers and which was extremely ruinous to the industry and agriculture of India. In a way they continued to make efforts to maintain the same ratio till in 1926 but in that year they had to reduce it to 18d. because they could not keep up that ratio. Sir, arguments from both sides could be advanced in those days for and against the 18d. and 16d. ratio. These arguments were a mere camouflage in order to hoodwink the ordinary man, so that he may give up the task as hopeless on account of the intricacies that were advanced by both sides.

But we find that in 1931 even England, in spite of the greatest efforts that it was making, had to devalue its currency and to go off the gold standard. It was at that time that the United Kingdom itself decided to depart from the gold standard and to devalue its pound.

Now, the question is that when the country from which the Honourable the Finance Member comes and by which we are being ruled and by the dictates of which we are to be governed, had itself devaluated its currency for protecting itself against the invasions of the other countries, why should not India be allowed to have her own currency policy and to defend herself against the commerce of other countries of the world? Now, let us see what is the present position. We have got a rupee, the silver contents of which would not be worth more than 8 to 9d. But what is the value that is being kept up by the Government? It is 18d., that is to say, it is more than 100 per cent. Now, almost every country in the world, including England, has gone off the gold standard. America has reduced the price of the dollar by 40 per cent. England was the first country to do it and there was a time afterwards when the currencies were stabilised by some countries once again on these depreciated values and then we were lulled again. We were told that the world has stabilised and therefore we should no longer try depreciation and must keep content. But we find that even that idea is over and even that argument is finished and even those countries which were consistently insisting on maintaining the parity of their currencies are forced today by the circumstances of the world to depreciate their value. France has done it, Italy has done it and other countries are following in their footsteps and when we ask the Government of India to reconsider their policy in the light of the circumstances of the world that came into existence not today but when England went off the gold standard and which are coming again with greater rapidity, and to fix the rupee at the proper value and to depreciate it, we are told to wait. What we want is not really depreciation but a little less appreciation because there is no question of depreciation for rupee. But we are told that the Government of India will stick to their policy, a policy which is not justifiable in the present circumstances of the world and which cannot be justified by the actions of the great nations of the world, a policy which is ruinous to our industry and to our agriculture. These are the days when we have got the problem of unemployment staring us in the face. These are the days when agriculture is depressing and industry is almost in a critical stage on account of competition with countries which have got depreciated currencies. Japan is coming on our industries, on our mill industry, on our sugar industry and on our textile industry and we are passing protective laws one after the other. Sir, our industries cannot, in the circumstances, stand on their legs and even in that condition we find the Government of India again saying that we must keep quiet and they will stick to their currency policy. It is for this reason that this motion has been brought before the House.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammādan Rural) : Sir, I rise to support this adjournment motion. I can assure the House that as far as this particular question is concerned, I will try my best to look at it purely from an economic point of view and if there were to be a diversion at all, it will be only to say a few words on behalf of the peasants for whom I claim to speak. Sir, we were

[Prof. N. G. Ranga.]

assured by an interruption, when my Honourable friend, Mr. Ananthasayanam Ayyangar, was speaking, by the Honourable the Finance Member that our exports are increasing and our balance of trade is slightly becoming more and more favourable. I hope I have understood him aright. But I am sure even he cannot dispute the fact that our balance of trade has been growing less and less favourable for a number of years, and especially ever since England has gone off the gold standard. Again and again questions were raised in this House whether the Government of India were seeking to improve our position in regard to our balance of trade and we were given the answer, the very same hackneyed answer, that they were trying their best. Yet it is a well-known fact that neither the Honourable the Commerce Member nor the Honourable the Finance Member has tried to implement the second part of my Honourable friend, Mr. Jinnah's amendment that was passed by this House to the Resolution brought forward by Government on the Ottawa Pact.

Then, Sir, there is the wholesale price index. If any proof is needed at all to show that India is in a worse position than any other country, all that is to be done is to look at the wholesale price index of various countries. It will be found that even America and England are in a very much better and more favourable position than India is. From 1928 till 1930 India was in a very much better position and our wholesale price index was very much higher but now our wholesale index price is very much lower than that of England or America.

But we may be told that England is pursuing the right policy of currency. And that in England no attempt is being made by politicians like us to try to persuade the Government to devalue their currency and so on. But the facts are otherwise. Ever since England went off the gold standard, her wholesale index price has been going up and her cost of living index also has been improving.

Even in regard to the cost of living index, so far as India is concerned, we find India fares worse. What does the cost of living index show? If there is any increase in it, it indicates an increase in the general level of the prosperity of the country. A fall in the index price indicates that there is a general fall in the prosperity of the country. We find that as far as our own working classes are concerned, so far as our own masses are concerned, they have been growing more and more poor, their economic conditions have been growing more and more adverse than is the case in other countries especially in America, and England.

If we take again France and India and if we were to compare the currency of our country with that of France, we will find that France is in an unfavourable position in regard to the purchase of our goods by 20 points. That only shows that our goods have been made more and more costly for other countries especially those non-Empire countries and therefore their imports from India have been growing less and less and no wonder that our balance of trade has been growing less and less favourable.

Then, take the question of our agricultural indebtedness. It is a well known fact that the burden of the agricultural indebtedness has

been increasing. It has increased by nearly 100 per cent. and our ability to pay off these debts has gone down immeasurably. Of course Government has not done anything to relieve this burden of agricultural indebtedness. They have made it perfectly clear in the debate that took place only the other day that they really are not prepared to take any action to help our peasants. It is here that this unrestricted fall in prices has come to hit our agricultural classes. It will be found from the Review of Trade that while in 1928-29 the value of our principal agricultural commodities was 10,221 crores, it came down to 474 crores by 1933-34. It might be argued that it does not indicate very much. But it does indicate this much that by the fall in the price of agricultural commodities there has been a corresponding fall and more than a corresponding fall in the value of agricultural assets and what is more, in the credit worthiness of the peasants with the result that there has been a regular run on their resources made by the money-lenders and also by the Government.

It has been admitted before the Public Accounts Committee and in the Public Accounts Committee report, it has been stated, that as far as the railways are concerned, as far as our biggest national assets are concerned, there is no early chance of the railways becoming solvent unless and until there is a general appreciable rise in prices. There is a deficit of seven crores to be made good and the Public Accounts Committee has recommended that a special officer or a special committee should be appointed to investigate into the various methods of effecting economy in the railway expenditure in order to effect only an economy of three crores. There is still a balance of four crores to be made good and this can be done only if there were to be a rise in the general level of prices.

But there cannot be a general rise in the level of prices as long as our Finance Member sits there laughing like Nero when Rome was burning and so long as he says that he will not monkey with the ratio. I know why he is here in this country instead of being one of the civil servants in his own country. England has found out the necessity for monkeying with her own exchange and finding it difficult to get on with Sir James Grigg as a civil servant who would not allow England to monkey with the exchange, he has been exported to India. (Laughter.)

There is one Economist, Mr. J. M. Keynes, whose Tract on the Indian Monetary system has been an authoritative treatise in this country and has been acclaimed to be an authoritative one even by European economists and whose position amongst the ranks of economists even in Europe has been a distinguished one and I am sure his testimony as to the results of England going off the gold standard and trying to develop her own monetary standard cannot be disputed even by my Honourable friend, Sir James Grigg. If he does so, I am sure the House knows how much value to be attached to his opinion, expressed against Mr. Keynes. He says :

“ As regards Great Britain herself, the rest of the world and even we ourselves perhaps, may have a little overlooked the change since last September, which represents if not an absolute, at least a relative improvement. The number of persons employed to day is not less than the number employed a year ago, which is true of no other industrial country. The present actual rate of expenditure on the unemployed falls well

[Prof. N. G. Ranga.]

below the Budget provision. This has been achieved in spite of the fact that there has been, even during the past year, a further rise in real wages ; for whilst money wages have fallen by 2 per cent., the cost of living in spite of depreciation of the sterling exchange has fallen by 4 per cent. For the explanation lies in the fact that over a wide field of her characteristic activities, Great Britain today is once again the cheapest producer in the world. I believe that our textile industries can now produce more cheaply than their chief competitors over a wide range of qualities. I believe that we can run ships today at a lower cost than anyone else. I believe that we have an opportunity of making a bid for the best part of the world's export trade in motor cars and motor lorries. All this will tell increasingly with time. The forces set on foot last September have by no means had time as yet to work their full effect. But even today Great Britain is decidedly the most prosperous country in the world."

The full effect has been seen in the rise in her cost of living index, in the rise in the wholesale index prices and also in the betterment of her balance of trade.

Now, I come to another authority, Paul Einzig :

"Let us now consider the probable effects of a devaluation of the franc. It is safe to assume that it would be followed by an allround devaluation of the currencies of the gold bloc and its satellites. Among others, Germany would also devalue. This is a point of importance because while there is very little competition between British and French export trades, competition is very keen between Great Britain and Germany. Thus if a drastic devaluation of the Reichsmark should place British export trade in a difficult position it would be inevitable to allow sterling to adjust itself to a level which is more in accordance with the interests of the export trade. In any case an all round devaluation is likely to be followed by withdrawals of refugee funds which would be repatriated."

Sir, in America, President Roosevelt is trying his best to stimulate trade, internal and external, in order to help his people. The cost of living index has gone up. It only shows that the prosperity has been going up. And the wholesale price index has gone up, and only last year, I was informed only a few minutes ago by a valued friend, that this Government has found it very difficult to prevent our rupee going beyond 1s. 6d.

The Honourable Sir James Grigg : Which way, up or down ?

Prof. N. G. Ranga : Up. Sir, it was because of the policy of currency contraction that Government have been following here. It is quite possible that in the last one or two years there has not been very much contraction, but there is what is known as natural expansion of currency that ought to take place every year and it has not been taking place. What is more, in 1930-31 his predecessor, Sir George Schuster, was very much hard put to it to explain to this House that owing to the fall in the wholesale index he was obliged to contract the currency in this country. There has been in fact actual contraction of currency in the last five or six years and the money that has been absorbed, the total amount of currency in circulation, has been going down. It may be argued that it is because the general level of prosperity has gone down. But who is responsible again for this fall in general prosperity ? The Government and their currency policy. They may turn round and say, "If we were to monkey with this currency policy there is going to be a lot of trouble". Sir, unfortunately this country is too much flooded with monkeys (Laughter) ; but the irony of fate is that while all other countries are trying to make use of their own monkeys in their exchange and ratio policy and help the masses, our Government somehow or other so manage

their monkeys as not to monkey with our own exchange and help our people. (Laughter.) Sir, the time has come when the united voice of the motion should be respected.

Mr. President (The Honourable Sir Abdur Rahim) : The Honour-Member's time is up.

Prof. N. G. Ranga : I am closing. So I sincerely hope that Government will try to implement the united and joint demand of the masses of all classes in this country and try to help them and fall in line with the rest of the world and help to increase the general level of the prosperity of our masses.

The Honourable Sir James Grigg : Sir, it would be presumptuous on my part, in the short space of a quarter of an hour, to attempt to deal with an extremely abstruse subject on which thousands of volumes have been written and millions of speeches have been made. We had a selection of learned experts this afternoon on this subject, and the only thing I will say about their speeches is that never at a single point did they impinge on reality. However, as I said just now, it is quite impossible to enter into a scientific rebuttal of all the arguments which have been written on this point and I think for simplicity's sake I will confine myself to one denial of fact or of reputed fact and one argument. Now the denial of fact is this. The ground on which the motion of adjournment was moved was on account of the appreciated, the unduly appreciated rupee. One Honourable Member said that he did not want to depreciate the rupee but wanted a little less appreciated rupee,—a distinction without much difference, I fancy. But the truth is that the rupee is not unduly appreciated, and I will quote Professor Ranga himself. For example, he said that it is becoming extraordinarily difficult to keep the rupee down to 1s. 6d. That does not look much like an unduly appreciated rupee. The second piece of evidence is one which I have quoted before in this House based on some figures given in one of the League of Nations' publications. On the ordinary purchasing power parity theory,—if I may be forgiven for mentioning an abstruse subject like that in this debate,—on ordinary principles of purchasing power parity, the proper level of the rupee about a year ago, I am bound to say, was something like 1s. 8d. That again does not look much as if we were keeping an unduly appreciated rupee. So much for the basis of fact on which the speeches of all the Honourable Members opposite have been founded. Now I want to raise one argument and that is what seems to me to be the most vital and fundamental argument in relation to the circumstances of the present time. Of course again Honourable Members opposite entirely left out of account directly,—there was an oblique reference in the speech of the Honourable the Mover,—that the rupee was depreciated by something like 40 per cent. in 1931. In his description of events which followed 1931, the same Honourable Member complained bitterly that it was followed by a large number of quotas, increased tariffs and various other restrictions on the part of various countries who considered themselves aggrieved by the depreciation which India in common with the rest of the sterling block had undertaken.

Mr. M. Ananthasayanam Ayyangar : By the Ottawa Agreement.

The Honourable Sir James Grigg : The Ottawa Agreement had nothing to do with it. But anyhow I wish, if I may, to convict the

[Sir James Grigg.]

Honourable Member out of his own mouth. That is exactly what would happen in the case of competitive currency depreciation. What has been wrong with the world for the last five or six years is that there has been first depreciation. If you like you may call that the method of attack. That has been followed by various defences raised by the people who considered themselves victimised, quotas, tariffs, prohibitions, and even a counter-attack in the way of countervailing depreciation. Now I say, Sir, that at a time when it looks,—and I hope very sincerely that the appearance will be justified,—now when it looks as if a truce is going to be called to all this grotesque folly of competitive restriction, because after all currency depreciation is only the first step in this war of restriction and it is intended quite frankly by the Honourable Member who spoke first as an additional means of restricting imports, now when we are at last at a point where it looks as if a truce is going to be called to all this folly, I think it is absolutely monstrous that India should be asked to be the first to restart the war.

Mr. M. Ananthasayanam Ayyangar : Unless we also fight there will not be truce.

The Honourable Sir James Grigg : And for my part, and speaking on behalf of the Government of India, the Government of India will have no part or lot in restarting that war. Now I do not wish to complain to the Opposition about the success of their little stratagem or ruse. Nobody wants to complain about their having their little joke. But it is rather important that the world outside should recognise that it is a joke. And therefore I wish to say one thing more, speaking on behalf of the Government of India and with a full sense of responsibility, and that is to repeat the categorical statement which I made a week ago and that is that the Government of India do not intend in any way to embark on or take part in a competitive depreciation of currencies ; and they intend by every means in their power to maintain the present sterling parity of the rupee. That is intended to be the serious statement and I hope it will go out to the markets of Bombay, Calcutta and the rest of the world as the real intention of India, rather than some of the speeches that we have listened to this afternoon.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions :

5 P.M.

Non-Muhammadan Rural) : Sir, I agree with the Honourable the Finance Member in his estimate of the gravity of this problem. I accept that it is difficult to deal with a complicated question of this nature, and which is more or less technical too, within the space of the few minutes that can be available to a speaker in the course of a motion for adjournment of the business of the House. But I feel all the same that while monkeying with the ratio should be avoided, donkeying with it is equally undesirable. I say while monkeying with the ratio is certainly not a very desirable process, donkeying with it does not indicate much of wisdom either. A perverse, stupid, and obstinate adhesion to the old ratio, although the state of affairs has changed all over the world is nothing if not donkeying. We should not go out of the way....

The Honourable Sir James Grigg : I am quite content to be called names if the Honourable Member will only realise that the obstinacy is fixed and immovable.

Pandit Govind Ballabh Pant : I think even the Government on the other side should realise that they will not be allowed to continue monkeying with the affairs of this country till doomsday. (Opposition Cheers.) They should not regard themselves as immovable for all time. We hope to oust them much sooner than they imagine.

Coming to the motion, there are certain elementary facts which must be within the knowledge of Honourable Members of this House. One is this : that even before the era of depreciation set in, even before the year 1929 or 1931, Indian opinion in this country was unanimously in favour of a 16*d.* ratio. It wanted a 16*d.* sterling ratio even before this era of devaluation and depreciation set in in the world. Those who have read The Hilton Young Committee's report or the reports of other commissions and committees which have dealt with this matter must be familiar with the Indian opinion which has never departed from the fundamental principle that a 16*d.* ratio is in the interests of this country. Now, there are certain other factors which cannot be ignored—the developments that have since supervened ; the prices of primary products have gone down considerably. India is above all an agricultural country : the price index has fallen down and our gold exports have been greater than at any other time during the last sixty years. In fact during the last four or five years, we have parted with more than 200 crores of gold....

An Honourable Member : 280 crores....

Pandit Govind Ballabh Pant : I am always conservative in my statements. Several countries have prohibited the export of gold from within their borders. We also know that India is a debtor country so far as England is concerned. We have every day and every year to pay considerable amounts in the form of interest, shipping charges and many other things—my friend says Rs. 40 crores—my own estimate is about 75 crores a year. But it is no use going into these matters on this occasion. What we find is this, that England itself has not really fixed a stable ratio. They have got an exchange stabilisation fund and they manipulate the ratio from time to time. I do not say manipulate it in a crude manner, but they use this fund to see that the parity of the sterling is always maintained in such manner as to suit the requirements of England.

(The Honourable the Finance Member nodded dissent.)

As I said, I have no time now to enter into or to argue out matters of detail, but I can satisfy even the Honourable the Finance Member outside this Chamber that my remark is not incorrect, that with the aid of the stabilisation fund, the Bank of England and those associated with it are in fact manipulating the exchange ratio between England and other countries. The sterling, howsoever it may look as having stability, does not possess that stability today and we also know that though we are tied down to the sterling and linked to it and tied to its chariot wheels, even in the colonies they have devalued their currency, compared to sterling, by about 25 per cent. Now, what has happened must be taken into account. Both Australia and New Zealand have done it. We know that the United States had a very difficult time of it and it was only after devaluating the currency and starting a new deal that it has been able to tide over its difficulty. France had been struggling along with other countries in the gold bloc for the maintenance of a gold standard and the gold parity ;

[Pandit Govind Ballabh Pant.]

but ultimately it was forced to devalue the franc and now the lira too stands depreciated. If Honourable Members can stretch their memories seven or eight years back, they may remember that at one time Mussolini had declared that "the lira is a thing for which Italy has shed its blood and we will maintain it on the gold parity to the last day". But even Italy had to give in in this respect, because economic facts cannot possibly be twisted or played with except in the case of countries that are under the subordination of other countries. We also know that our exports both to Italy and to Belgium exceed the imports into our country from Belgium and Italy : and with this change in the exchange ratio, our industries will suffer and our agriculture also will suffer, because the value of the franc as well as of the lira has gone down by about 30 to 40 per cent., with the result that we will hereafter be able to import the goods from those countries at a cheaper price in terms of the rupee, because the value of the lira as well as of the franc has also depreciated in terms of the sterling to which we are tied, while the value of our goods to those countries will rise : with the inevitable result that our trade and our industry are bound to suffer. I am not going deeper into the question. But is it not true and can anybody dispute it, that when there is a fire all round, we cannot say we will let ourselves be burnt and will not take account of the fire that is raging round us ? What I desire is this : that the rupee should be delinked from the sterling. We must be free to determine our own currency and our exchange parity and we must be free to take account of the circumstances of the world as they exist or as they may develop hereafter and to regulate our currency in the interests of our country. Even France and Italy had to take into account the opinions of other countries before they devalued their own particular currencies. It is obvious enough and I think the Honourable the Finance Member will not dispute it, that the devaluation of the lira and of the franc means the over-valuation of the rupee in terms of lira and the franc. These are indisputable facts. Whether there has been a general appreciation of the rupee or not we are not concerned with that, but that there has been undoubtedly an appreciation of the rupee in terms of lira and the franc, nobody can dispute, for devaluation from 30 to 40 per cent. of the lira and franc means the over-valuation of the rupee to that extent, and even for equitable adjustments of business relations between creditors and debtors, between primary producers and industrialists a readjustment of the currency system and the exchange ratio is necessary.

I would remind my Honourable friends, the Members of the European Group, of what Mr. Gavin Jones said some months back in one of his striking speeches in Cawnpore. He stressed that the methods adopted to deal with the economic difficulties in this country are really futile and fruitless ; what was really necessary was to reduce the rupee to 16d. and Mr. Gavin Jones is not certainly biassed by any political prejudices. His opinion must be taken account of as that of a business man. Mr. Jamal Muhammad's telegram has already been referred to. The opinion of the President of the Federation of Indian Chambers of Commerce is also well-known. I think that is also the opinion of other business men. I trust that the European Group too agree with the view that I have proposed. I think it is time that our currency question were considered in the light of the requirements of this country and of the people of this country alone, as we cannot allow the rupee to be pegged to the sterling, and it is high

time that we had an independent currency and exchange system of our own. While I join with the Honourable the Finance Member in the view that there is grotesque stupidity and folly in the present system of quotas, high tariff walls and so on, but unless the rest of the world takes the same view of it, we alone should not be sacrificed as scape-goats for the benefit of our masters or of the rest of the European world. I think it is time that our currency policy were regulated in the interests of our country. I have only one appeal to make to my Honourable friends. This is not at all a party question. This is not, in fact, even a political question. It is an economic question, which goes to the fundamentals of our economic and social problems as they exist today, and I hope every Member of this House, European and Indian, and failing the former, every Indian at least, whether nominated or elected, excepting those who have to obey the mandate of their alien will unanimously join the Mover and support this motion.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : I entirely agree with the last speaker that this is not a question which we can decide by votes after discussing it for two hours only. We can only lay our grievances and our difficulties before the Government and let us quietly think over the matter and find out a solution of the problem. This question of exchange has become a chronic rheumatism. Whenever any hot or cold wind blows, it begins to trouble us, and whenever anything happens in the rest of the world we at once begin to feel its effect. Before the War we were in a very fortunate position. We had a balance of trade of about 80 crores, which was sufficient to meet our liabilities in England amounting to 70 crores, and we had 10 crores left to purchase treasure. But unfortunately, after the War, when every country depreciated its currency, our Government made a fundamental mistake in fixing the ratio at 2s., 50 per cent. higher than pre-war rate, which really they could not maintain because we notice that between 1920 and 1927, the ratio went down to as much as 1-1d. On one occasion, and during this period we sustained a loss amounting Rs. 78.02 crores in maintaining the ratio at 2s. The next important step was taken in 1927 when we fixed the ratio at 1-6d. There was some justification to fix it at 1-6d. in 1927 because the price index at that time was rather high. It was 148 and we could not reduce it to a lower level. The next discussion took place in the Assembly during the passing of the Reserve Bank Bill when we considered clauses 40 and 41 thereof. On that occasion we pointed out that whatever the position might have been in 1926, that had certainly changed in 1933 and during the years 1926-30 we lost 33.94 crores in order to maintain the exchange at 1-6d.

Now, I shall mention the two difficulties which we have to face, and I hope that the Government will sympathise with them and will be able to find some solution for them. Our suggestion of devaluation may not be good enough, and if so, we hope that the Government will find out some other method by which our two difficulties will be solved. One of our difficulties is that before the War we had a balance of trade of about 80 crores in our favour. This balance of trade has been gradually reduced. It was 61 crores in 1930-31, 34 crores in 1931-32, it was reduced only to 3 crores in 1933-34 ; it was 34 crores in 1934-35. and last year it was 22 crores. This balance of trade cannot possibly pay up our commitments of 70 crores, but fortunately for the Government and unfortunately for the people of India we had a

[Dr. Ziauddin Ahmad.]

panic in the form of export of gold. People came forward with nervousness and began to sell their gold. They have already sold gold to the extent of 282 crores from the time England went off the gold standard, and on account of this export of gold we have been able to pay up our liabilities. The first problem which I lay before the Government is this. How long can we continue to pay our commitments in England by the reserves of the previous years, that is, by parting with gold? There must be some time limit. We cannot go on paying indefinitely like that. So we must find 70 crores at least every year to pay our commitments or we will become bankrupt. Again, paying our commitments by parting with our reserve is not a healthy way of paying off our liabilities, and I request that some other method may be devised by means of which we can pay off this thing, that is, by means of our export of merchandise, or in other words having a favourable balance of trade. It has been suggested that to increase the export trade it is desirable to devalue the currency. Sir Henry Strakosch on one occasion said, and he gave the examples of New Zealand, Sweden and one other country, I think it was either Bavaria or some other country in the Balkans, which depreciated their currency with the result that their export was increased. This is one method which we suggest, it may not be a correct method, and if so, we hope that Government would find out some other method by means of which our export may be increased so that we may have 70 crores balance to pay off our commitments and so that we may not be compelled to pay out of the reserve of previous years. The second problem is maladjustment of price index of import and export articles. Here I have got before me the review of the Government of India and I have got the price index of import and export articles. I find that the latest figures for May, 1935 which are available in this book—the export which really means agricultural products, has gone down from 100 to 81, while import, which is really manufactured articles, has gone up from 100 to 110. The problem before the country, and without it it is impossible to improve the agricultural conditions of this country is that we should raise the price level of the agricultural products and if possible lower the price level of manufactured articles. We should increase this 81 to 100 and we should reduce the 110 to 100. One way is to devalue our rupee because the moment we do that, the prices of agricultural products will go up and the prices of all the articles which we import from outside will go down. Therefore, if the devaluation does not achieve this object, I ask the Government to suggest some other method by means of which we can achieve our object, because the fundamental problem just now is to raise the price level of the agricultural products. Unless this is done, it is impossible to benefit the agriculturists who form three-fourths of the population of this country. If we raise the price level, we can pay our commitments without falling back upon our reserve.

As regards fixing the ratio, there is one thing which my friends have not appreciated. So long as this panic about export of gold continues, normal conditions will not be resumed and it is impossible to have any stability. One suggestion was made that we should not link rupee with sterling and allow the rupee to find its own level. That is a very dangerous suggestion. If that is allowed to be done, we don't know where we will be. The future will be entirely in the dark and there will be speculation and uncertainty in business and no merchant will know

where he stands. So my suggestion is that at present we should wait and we should press the Government to put an embargo on gold export so that the gold reserves may remain in this country and it may be used on some critical future occasion, it should not be allowed to be depleted to meet ordinary economic problem. I would therefore request the Government to find out a solution for two problems, how to pay our commitments without falling back upon reserve and how to raise the price level of agricultural products. These are the problems I would put before Government, but as I said it is not a problem of adjournment motion, however serious it may be.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : I take part in any discussion at the present moment on this question of currency and exchange with the greatest hesitation. The House perhaps knows that I and my friends belong to the group of those who believe in *Is. 4d.* exchange, and we have urged this point of view upon the Government in season and out of season and, I believe, if my memory does not fail me, even during the period of the present Finance Member's tenure in India ; but, Sir, the world does not stand still. A great deal of water has flowed under the bridge and at a great speed during the very short time that has elapsed since we last discussed this question in this Honourable House. In India, we are not independent of conditions that prevail all over the world, and I can well remember that, about this time last year, those who understood this question were very considerably exercised and were most apprehensive as to whether the Government of India would be able to hold exchange at *1s. 6d.*, and whether their hands would not be forced into allowing it to go to *1s. 7d.* or *1s. 8d.* All that was entirely due to the policy that America followed in regard to the value of silver. America, this time last year or a little before that, say about 15 months ago, declared her policy with regard to silver. If America had succeeded, I really cannot find words to express what the condition of India would have been. Exchange might have risen to *1s. 10d.*, or *2s.* if America had succeeded in its policy of carrying the value of silver to, I believe, *1.8* which they threatened to do. Well, to cut a long story short, America failed but, up to now, so far as I am aware, there has been no repudiation of that policy. A combination of circumstances forced on America a modification in the practice of her policy. But they have not yet repudiated that policy. Under the circumstances, Sir, not being an expert on this question of currency, I would be the last person, at the present moment, to express any opinion, and certainly I am not as strong in my opinion as the Honourable the Finance Member ; but I have not yet seen that there is a Chancellor of the Exchequer in any part of the world, if there are such people in other parts of the world than England, who would express any other opinion than that expressed by the Finance Member, as to what he intends to do tomorrow. Therefore leaving aside what the Finance Member has said, I would appeal to this side of the House not to express any definite opinion just now. I believe it would be dangerous in the interests of this country. I may be prepared to express an opinion along with my friends in Bombay sometime hence. But today there is an uncertainty of condition in all parts of the world. Things are moving in Europe from day to day, moving faster or slower than we know, and we do not know what exactly France is going to do. We are told and we know that they have devaluated but to what extent, they are not committed. The same is the case with Holland, Belgium, Switzerland. The whole question in Europe is in the melting pot. No

[Sir Cowasji Jehangir.]

country that has not already devalued is prepared to say to what extent it is going to devalue. You must remember that England and India have already devalued. The other gold standard countries have come forward to devalue just now, but at the present stage there is nobody in India who knows to what extent they are going to do so. As the Finance Member very correctly said, if ever there was a chance of the world coming to terms on this great question of currency, it would appear there is one now. In 1933, a very bold attempt was made in London, when the financiers of the world met to settle this question of currency. In three short days the conference nearly broke down. Then England and America were urging France and Italy to devalue and come to an understanding. Last year, in 1935, it was France and Italy who were begging other countries to come to an arrangement about currency, but England and America refused, because it did not pay them to do so. Conflicting interests in these questions must play a predominant part, and now, we can only hope and pray that the world will come to some arrangement within a few months on this question of currency. Undoubtedly India will then have to make up her mind as to what her policy should be. But to pass a Resolution today, in this Honourable House, that on the 8th of October 1936 we should de-value is, I consider, running an incalculable risk. Therefore, Sir, now that we have had our discussion, now that Honourable Members have had an opportunity of expressing their opinions, now that the Honourable the Finance Member has again had an opportunity of expressing his own opinion, I would appeal to my Honourable friends not to press this adjournment motion any further. In our own interests, let us not go to a vote or commit ourselves just now, lest all of us may regret the decision we came to. I know we can always say that we were the Opposition and any expression of opinion given by us does not carry with it any great responsibility. We can always plead that. But I would plead with my Honourable friends not to express any definite opinion of the House today. We have had an opportunity of expressing our opinions individually. Let us be content with that. I would again appeal to my Honourable friends that we have had our opportunity, we have had our say, leave it at this. Having regard to the uncertain condition of the world, and to the absolutely uncertain position even in India with regard to currency—and I believe that honestly—having regard to all these reasons, perhaps my Honourable friend, Mr. Ayyangar, will see his way, now that he has had his innings, not to go any further, lest we do damage to ourselves. I appeal to my Honourable friends. I can do no more.

Several Honourable Members : The question may now be put.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the question be now put up.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the House do now adjourn.”

The Assembly divided :

AYES—52.

Abdul Matin Chaudhury, Mr.
 Abdullah, Mr. H. M.
 Aney, Mr. M. S.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Azhar Ali, Mr. Muhammad.
 Bhugavan Das. Dr.
 Chahha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Das, Mr. B.
 Das, Mr. Basanta Kumar.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Essak Sait, Mr. H. A. Sathar H.
 Fazli-Haq Pracha, Khan Bahadur
 Shaikh.
 Gadgil, Mr. N. V.
 Giri, Mr. V. V.
 Govind Das, Seth.
 Gupta, Mr. Ghansham Singh.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.

Khan Sahib, Dr.
 Khare, Dr. N. B.
 Lalchand Navalrai, Mr.
 Mahtra, Pandit Lakshmi Kanta.
 Malaviya, Pandit Krishna Kant.
 Mangal Singh, Sardar.
 Mudaliar, Mr. C. N. Muthuranga.
 Muhammad Ahmad Kazmi, Qazi.
 Murtuza Sahib Bahador, Maulvi Syed.
 Paliwal, Pandit Sri Krishna Dutta.
 Pant, Pandit Govind Ballabh.
 Parma Nand, Bhai.
 Raghubir Narayan Singh, Choudhri.
 Ranga, Prof. N. G.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Sham Lal, Mr.
 Shaikat Ali, Maulana.
 Sheodass Daga, Seth.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sinha, Mr. Shri Krishna.
 Som, Mr. Surya Kumar.
 Sri Prakasa, Mr.
 Umar Ali Shah, Mr.
 Varma, Mr. B. B.

NOES—52.

Abdul Hamid, Khan Bahadur Sir.
 Acoti, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ahmed, Mr. K.
 Ayyar, Diwan Bahadur R. V. Krishna
 Bajoria, Babu Baijnath.
 Bajpai, Sir Girja Shankar.
 Bewoor, Mr. G. V.
 Bhagchand Soni, Rai Bahadur Seth.
 Bhat, Mr. M. D.
 Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Craik, The Honourable Sir Henry.
 Dalal, Dr. B. D.
 Das-Gupta, Mr. S. K.
 Dey, Mr. R. N.
 Ghiasuddin, Mr. M.
 Ghuznavi, Sir Abdul Halim.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar
 Sir.
 Jehangir, Sir Cowasji.
 Khurshaid Muhammad, Khan Bahadur
 Shaikh.
 Lal Chand, Captain Rao Bahadur
 Chaudhri.

Metcalf, Sir Aubrey.
 Milligan, Mr. J. A.
 Mody, Sir H. P.
 Morgan, Mr. G.
 Mudie, Mr. R. F.
 Mukherjee, Rai Bahadur Sir Satya
 Charan.
 Nauman, Mr. Muhammad.
 Naydu, Diwan Bahadur B. V. Sir Hari
 Rao.
 Nind, Mr. W. W.
 Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Ram, Mr. P. R.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan, Captain Sardar
 Siddique Ali Khan, Khan Sahib Nawab.
 Singh, Rai Bahadur Shyam Narayan.
 Spence, Mr. G. H.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Yakub, Sir Muhammad.
 Zafarullah Khan, The Honourable Sir
 Muhammad.

Mr. President (The Honourable Sir Abdur Rahim) : Order. order :
 The "Ayes" are 52 and the "Noes" are also 52. There being an

[Mr. President.]

equality of votes, it means that the House on this difficult and important question has not been able to come to a decision. Following the well-established principle applicable to such cases, I give my vote in favour of "Noes".

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Friday, the 9th October, 1936.

5

